



# Solicitation

**IMPORTANT: SEE "NOTICE TO BIDDERS" CLAUSES HEREIN  
BIDS MAY BE SENT TO THE ABOVE ADDRESS ONLY  
(E-Mail or Facsimile Bidder Submissions Are NOT Acceptable)**

<b>BID OPENING</b>		<b>TITLE:</b> Group 77017 Telecommunication Connectivity Services (Statewide and County)	
<b>DATE:</b> June 5, 2019	<b>TIME:</b> 11:00 A.M. EST		
<b>SOLICITATION NUMBER:</b> 23100		<b>Classification Codes:</b> 43, 45, 81 and 83	
<b>CONTRACT PERIOD:</b> See "Contract Term" Clause			
<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 listed below.			
Karen Fowler, Marc Kleinhenz, Anthony Montes, Jessica Paul, Daniel Blake, Nancy Dougherty, Steven Charles, and Charles Strickland			
E-mail address: <a href="mailto:OGS.sm.sst_telecommunications@ogs.ny.gov">OGS.sm.sst_telecommunications@ogs.ny.gov</a>			

The Bid must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this SOLICITATION, Appendix A (Standard Clauses For New York State Contracts), Appendix B (General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Bidder affirms that it understands and agrees to comply with the OGS procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). Information may be accessed at:

**Procurement Lobbying:** <http://www.ogs.ny.gov/acpl>

<b>Bidder's Federal Tax Identification Number:</b> (Do Not Use Social Security Number)		<b>Bidder's 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:				
Bidder's Signature:		Bidder's Printed or Typed Name:		
Bidder's Title:		Date:		

**FOR PROCUREMENT SERVICES USE ONLY**

LITERATURE  LETTER  FLASH DRIVE  OTHER  # of Binders/Packages:  
PURC. MEMO  CD/DVD  SDHC CARD  \_\_\_\_\_ Documented by: \_\_\_\_\_



**Bidder Certification and Affirmation**

Bidder certifies and affirms as follows:

1. This Bid is an irrevocable offer for one hundred eighty (180) 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 Solicitation.
2. The Bidder can and will provide and make available, at a minimum, the Products, deliverables and/or services as described in the Solicitation.
3. The Bidder has read and understands the provisions of the Solicitation, and all appendices, attachments, and exhibits attached thereto, including Appendix A (Standard Clauses for New York State Contracts) and Appendix B (General Specifications).
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/aboutOgs/regulations/defaultSFL\\_139j-k.asp](https://ogs.ny.gov/aboutOgs/regulations/defaultSFL_139j-k.asp).

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**

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## **APPENDICES AND ATTACHMENTS**

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

### **APPENDICES**

Appendix A – Standard Clauses for New York State Contracts (January 2014)  
Appendix B – General Specifications (April 2016)  
Appendix C – Contract Modification Procedure

### **ATTACHMENTS**

Attachment 1 – Administrative Information  
Attachment 2 – Pricing  
Attachment 2b – Taxes, Surcharges, Fees, and Other Charges  
Attachment 3 – Insurance Requirements  
Attachment 4 – Primary Security and Privacy Mandates  
Attachment 5 – Bidder Questions Form  
Attachment 6 – Report of Contract Usage  
Attachment 7 – How to Use  
Attachment 7b – How to Use – RFQ Participation of Interest  
Attachment 7c – How to Use – RFQ Template  
Attachment 7d – How to Use – RFQ Financial Template  
Attachment 7e – How to Use – Physical Service Connection Charge Checklist

## Section 1. INTRODUCTION

### 1.1 INTRODUCTION

This Solicitation is issued by the New York State (“NYS”) Office of General Services (“OGS”), Procurement Services to solicit Bids from qualified Contractors, see Section 3 – Bidder Requirements and Qualifications, for Telecommunication Connectivity Services (“Service” or “Services”) as specified herein for all Authorized Users.

The objective of this Solicitation is to provide Authorized Users with Telecommunication Connectivity Services necessary to support their needs while also recognizing the ever-expanding telecommunications industry. At the same time this Solicitation must work in conjunction with OGS’s Centralized Contracts for Information Technology.

The telecommunications industry has stringent regulations, so OGS has based the Scope of this Solicitation on those regulations. Currently the NYS Public Service Commission regulates Telecommunications on a statewide basis, while the Federal Communications Commission regulates Telecommunications on a federal basis. Furthermore, Telecommunication Providers offer an extensive amount of telecommunication services on a commercial basis. It is OGS’s goal to allow Authorized Users to purchase a Telecommunication Provider’s approved Services from their current catalog of commercial offerings.

This Solicitation shall result in new Centralized Contracts to replace the current Centralized Contracts under Award Number 20268. The new Centralized Contracts will have a Scope that differs from the current Centralized Contracts under Award Number 20268. The Centralized Contracts shall be awarded for up to five (5) years with a five (5) year extension option. The Centralized Contracts shall be awarded on a statewide or county basis.

This Solicitation and the resulting Centralized Contracts shall outline the procedures and methods used by Authorized Users, OGS, and Contractors to provide Authorized Users with a method for procuring Telecommunication Connectivity Services. All Contract holders will have the same terms and conditions for the duration of the Contract thus providing a fair and level playing field across the telecommunications market place. It is highly recommended that Authorized Users procure Telecommunication Connectivity Services via Request for Quotations (RFQ). RFQs will allow an Authorized User the ability to procure within any of the Lots or across Lots.

The resulting Centralized Contracts will be executed covering each of the Lots and geographic areas included within the Solicitation. Bidders will have the option of bidding on one (1) or more Lots and each Lot can be bid on either a statewide or county basis. If bidding on a county basis, Bidder must identify in which county or counties they are able to provide Service. This Solicitation shall be awarded based on an evaluation of Bids and Bidder qualifications.

This Solicitation outlines the terms and conditions and all applicable information required for submitting a Bid. Bidders should pay strict attention to the Bid Opening Date and time to avoid disqualification. Bidders are strongly encouraged to read the language of this Solicitation thoroughly and to precisely follow the instructions included in the Solicitation and all Attachments.

By using the resulting Contract, an Authorized User consents to OGS requesting and receiving Authorized User’s information as contained in invoices, reports, logs, sales reports and other documentation from Contractor.

### 1.2 IMPORTANT NOTICE TO POTENTIAL BIDDERS

Receipt of this Solicitation does not indicate that OGS has pre-determined your company’s qualifications to receive a Contract award. Such determination will only be made after the evaluation of Bidder Submissions compared to the specific requirements contained in this Solicitation, including price reasonableness, Vendor Responsibility and any other requirements.

Any hyperlink, law, policy, rule and regulation provided or referenced herein is subject to change. NYS OGS strives to provide those who utilize this Solicitation with proper and up to date information, hyperlinks, laws, policies, and rules and regulations, however, the Bidder is ultimately responsible for making sure they are properly informed.

Bidder Submissions may undergo an initial administrative review for completeness. For the evaluation of a Bidder Submission to proceed beyond the initial administrative review, it must be complete. All required information, forms, and signatures must be included. See Section 4 - Bidder Submission for additional information.



### 1.3 SCOPE OVERVIEW

OGS seeks qualified and experienced Telecommunication Providers to provide Telecommunication Connectivity Services to Authorized Users by submitting a Bidder Submission as outlined in this Solicitation. Telecommunication Providers must hold all applicable required licenses or authorizations, or both, from the Federal Communications Commission (FCC), the Federal Trade Commission (FTC), or New York State Public Service Commission (PSC), or any combination of the three, for a specific Telecommunication Connectivity Service. The Telecommunication Connectivity Service must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. The Telecommunication Connectivity Service must be offered for sale to NYS at a reasonable price. The intent is to award multiple statewide or county Contracts, and to provide Authorized Users the ability to obtain various Telecommunication Connectivity Services either through a competitive Request for Quotation (RFQ), or by submitting a Purchase Order. This Solicitation outlines the Lot specifications, terms and conditions, and the requirements a Bidder must comply with to be considered for a Contract award.

Bidder Submissions may be submitted for any combination of Lots. Each Lot may be submitted to provide Telecommunication Connectivity Services for the entire State of New York (statewide) or by county. An Authorized User will have the ability to procure within any of the Lots or across Lots. All Contractors shall have the same terms and conditions for the duration of the resulting Contract.

### 1.4 TRANSACTIONAL LEVEL REQUEST FOR QUOTATIONS (RFQ)

OGS highly recommends that an Authorized User develops a competitive RFQ which will be distributed to the awarded Contractors, in the applicable Lot according to the terms and conditions of the resulting Contract. All RFQs should comply with Section 8.1 Request For Quotations (RFQs). Attachment 7 – How to Use provides the Authorized User with instructions on how to use the Telecommunication Connectivity Services (Statewide and County) Contract. The winning Contractor shall enter into an agreement with the Authorized User, known as an Authorized User Agreement, to provide the awarded Services.

### 1.5 ESTIMATED QUANTITIES

A Contract resulting from this Solicitation shall be an estimated quantity Contract. No specific quantities are represented or guaranteed, and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities ordered at the Contract prices. Based on historical spend, the total anticipated dollar value of all Contracts under this award is approximately \$150 million annually. The historical dollar value listed in this Solicitation is only an estimate. The individual value of each resulting Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will procure Telecommunication Connectivity Services either through a request for quote, whether formal or informal. Authorized Users will be encouraged to purchase from Contractors who offer the Services and pricing that best meet their needs in the most practical and economical manner. See Appendix B, Estimated/Specific Quantity Contracts and Participation in Centralized Contracts.

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

- Such Contracts may be non-exclusive Contracts.
- There is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases.
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand and actual Services provided during the Contract Term.
- 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 resulting Contract.
- Contract pricing that is lower than anticipated could result in a higher use of Services by Authorized Users than anticipated.
- Contract pricing that is higher than anticipated could result in a lower use of Services by Authorized Users than anticipated.

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

## 1.6 KEY EVENTS/DATES

Event	Date	Time
Solicitation Release	03/18/19	N/A
Submission of Bidder Questions Due	04/01/19	5:00 PM ET
OGS Procurement Services' Responses to Bidder Questions	04/15/19	N/A
Submission of Bidder Follow-Up Questions Due	05/01/19	1:00 PM ET
OGS Procurement Services' Responses to Bidder Follow-Up Questions	05/13/19	
Bid Opening / Due date for Bidder Submissions	06/05/19	11:00 AM ET
Contract Approval Date /Award Publish Date	Rolling basis	N/A

## 1.7 BIDDER QUESTIONS

All questions regarding this Solicitation should be submitted using Attachment 5 – Bidder Questions Form, citing the applicable Solicitation document name and document section. The completed form must be emailed to [OGS.sm.sst\\_telecommunications@ogs.ny.gov](mailto:OGS.sm.sst_telecommunications@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 Solicitation.

If Bidder intends to submit a Bid that deviates from the requirements of the Solicitation in any way, the proposed deviations must be submitted during the Questions period so that they may be given due consideration prior to the submission of Bids. See Section 1.8 - Bid Deviations for additional information.

## 1.8 BID DEVIATIONS

Bids must conform to the terms set forth in the Solicitation. As set forth in Section 1.7 Bidder Questions, if Bidder intends to submit a Bid that deviates from the requirements of the Solicitation in any way, the proposed deviations must be submitted during the Bidder Questions period so that they may be given due consideration during the Bidder Question and Response period. 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 Solicitation 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 Bidder Submissions shall not be considered part of the Bid or resulting Contract.

## 1.9 NYS CONTRACT REPORTER

Bidders must register with the New York State Contract Reporter (“NYSCR”) at <https://www.nyscr.ny.gov> in order to receive notifications about this Solicitation. Navigate to the “I want to find contracts to bid on” page to register for your free account. In order to receive email notifications regarding updates to the content or status of a particular ad, you must “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 Solicitation 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 email notifications regarding updates, including email notifications regarding the posting of the question and answer document and updates to Solicitation documents.**

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

1.10 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING

Pursuant to State Finance Law § 139-j and § 139-k, this Solicitation 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 Government 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, is identified on the first page of this Solicitation. 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/> .

1.11 DEFINITIONS

Capitalized terms used in this Solicitation shall be defined according to Appendix B, Definitions, or as below:

Term	Definition
Accessory Device	Device provided at no additional cost to the Authorized User as listed on Contractor’s pricelist. See also “Device.”
Activation Date	The date agreed upon by the Authorized User and Contractor by which the Contractor must have the ordered Service ready for use by the Authorized User.
Authorized User Agreement	Authorized User Agreement shall mean the document memorializing the Contractor’s obligations with respect to a given transaction resulting from an RFQ issued by an Authorized User.
Best Value	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)).
Bidder	A Business Entity that submits a Bid for this Solicitation.
Bidder Submission	The complete response to this Solicitation submitted by a Bidder to provide, as applicable, the Services described in the Solicitation.
Business Day	Monday through Friday from 8:00 AM – 5:00 PM ET, excluding New York State Holidays or Federal Holidays.
Business Entity	Any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
Cloud Based	Any Service sold as an off premise offering and having one or more of the following characteristics: (a) Authorized User Data is collected, acted upon, or stored on Hardware not owned by an Authorized User; (b) Allows a Contractor access to Authorized User Data from a location other than the Authorized User’s premises; (c) the offering is based entirely in a virtual environment accessed by the Authorized User through the internet.

Term	Definition
Cloud Solution	Any Product or Service sold as an “as a service” offering and has one or more of the following characteristics: (a) Authorized User Data is collected, acted upon, or stored on Hardware not owned by an Authorized User; (b) Allows a Contractor access to Authorized User Data from a location other than the Authorized User’s premises; (c) the offering is based entirely in a virtual environment accessed by the Authorized User through the internet.
Consulting Services	The providing of expert knowledge for a fee.
Contract Term	The initial term of the Contract and any renewals, or extensions, or both.
Customer Premise Equipment (CPE)	Equipment employed on the premises of another (other than a Telecommunication Provider) to originate, route, or terminate Telecommunication Connectivity Services.
Data	Any information, formula, algorithms, or other content that the Authorized User may directly or indirectly provide to the Contractor pursuant to the resulting Contract.
Data Connectivity Services	Telecommunication Connectivity Services that allows customers to receive or transmit information through CPE or Device. A customer’s request for information is transmitted from the customer between or among points to a specified location. If the customer is requesting to receive the information, then the requested information is transmitted from the specified location between or among points to the customer. If the customer is requesting to transmit the information, then the requested information is transmitted to the specified location. The Telecommunication Provider, for purposes of transmitting or receiving information, will convert such information into Data, so long as there is no change in the form or content of the information. To receive or transmit information a customer’s Hardware may be connected to a Telecommunication Provider’s Network.
Days	Unless otherwise specified reference to days in this Solicitation shall mean Business Days, not Calendar Days.
Demarcation Point	The physical point at which a Telecommunication Provider’s public Network ends and the Customer’s private Network begins. The Demarcation Point is often the point at which the cable physically enters the building, but this varies from one site to another. The Demarcation Point defines where the Telecommunication Provider’s responsibility for Maintenance ends and the Consumer’s responsibility begins. The Maintenance of the Demarcation Point is the responsibility of the Telecommunication Provider.
Device	A piece of electronic Equipment (such as a mobile telephone, cellular telephone, satellite communicator, pager, SIM card, or portable hot spot) to be used with a Mobile Communication Connectivity Service offering on a Contractor’s Mobile Network. See also “Equipment.” Contractor must label Devices on its pricelist as either Accessory, Subsidized, or Unsubsidized.
Discount	An allowance, reduction or deduction from a selling price or list price extended by a seller to a buyer in order for the net price to become more competitive.
End-of-Life	When a Service is no longer being marketed or sold.
Equal Employment Opportunity (EEO)	Policies and procedures of the jurisdiction to ensure non-discrimination against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status.
Equipment	An all-inclusive term which refers either to individual Devices or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any). See also “Device,” “and “Hardware.”
E-Rate Program	The common term used in place of the Schools and Libraries Program. The E-Rate Program provides Discounts to schools and libraries for eligible Products and Services.
Federal Communications Commission (FCC)	A federal government agency authorized by the Communications Act of 1934 to regulate interstate and international telecommunications (radio, television, satellite and cable) originating in the United States.

Term	Definition
General Services Administration (GSA)	The department within the U.S. government that is responsible for procurement of goods and services.
Government Entity	A federal, state, municipal entity or tribal government located in the United States.
Hardware	The physical, tangible, parts, or components aspect of Telecommunication Connectivity Services.
Internet Access	Connection to the Internet.
Last Mile	<p>The final portion of the Telecommunications Network chain that delivers Telecommunication Connectivity Services to an Authorized User. The Last Mile shall connect an Authorized User's premises to the Telecommunication Network. Also referred to as the First Mile.</p> <p>Note: The usage of the word "mile" is figurative. The actual distance may be more or less than a mile.</p>
Legacy Service	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 12 months. Telecommunication Providers may not begin service agreements with Authorized Users within 6 months of End-of-Life
Maintenance	The upkeep of Service that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.
Managed Services	The outsourcing of Telecommunications or networking functions or applications (other than connectivity) from an Authorized User to a Telecommunication Provider. Examples of Managed Services may include but are not limited to: SD-WAN, web hosting, video networking, audio networking, unified messaging, hosted contact center, managed firewalls, web content management, protection against denial of service, or any combination of the listed services. Managed Services as defined above are expressly outside of the scope of this Solicitation. Many of these Managed Services are available for purchase through another OGS Centralized Contract.
Mandatory	Refers 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 Submission to be considered responsive.
May	Denotes 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" and "Will."
Minority and/or Woman-Owned Business (MWBE)	A business certified with Empire State Development (ESD) as a Minority and/or Woman-Owned Business.
Mobile Communication Connectivity Services	Telecommunication Connectivity Services that provides customers Voice Connectivity Services, or Data Connectivity Services, or any combination of both through a Mobile Network.
Mobile Network	A Network that transmits Data exclusively via radio signals, satellite signals, or other wireless signals, or any combination of the listed signals. References in this Solicitation and the resulting Contracts to "Bidder's Mobile Network" and "Contractor's Mobile Network", respectively, shall mean the Mobile Network identified on the Bidder's and Contractor's mobile service coverage map.
Must	Denotes the imperative in a Contract clause or specification. Means required, being determinative/mandatory, as well as imperative. Also see "Shall."
National Institute of Standards and Technology (NIST)	<p>The federal technology agency that works with industry to develop and apply technology, measurements, and standards.</p> <p><a href="http://www.nist.gov">http://www.nist.gov</a></p>
Network	A group of two or more pieces of Equipment that can transmit Data.

Term	Definition
New York State Holidays (NYS Holidays)	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; Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving Day; and Christmas Day.
New York State Service-Disabled Veteran-Owned Business (SDVOB)	A NYS-certified Service-Disabled Veteran-Owned Business. Please refer to New York Executive Law Article 17-B for additional details.
New York State Small Business Enterprise (NYS SBE)	A company that is a resident to New York State, independently owned and operated, with 100 or fewer employees, and not dominant in its field. See State Finance Law §160(8).
New York State Vendor Identification (NYS Vendor ID)	The ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
New York State Statewide Financial System (SFS)	The NYS Enterprise Resource Planning (ERP) system.
Non-State Agencies	Political subdivisions and other entities authorized by law to make purchases from OGS Centralized Contracts other than those entities that qualify as State Agencies. This includes all entities permitted to participate in Centralized Contracts per Appendix B, §27(b), Non-State Agency Authorized Users and §27(c), Voluntary Extension and State Finance Law Section 163(1)(k).
Number Portability	The ability of users of Services to retain existing Telecommunications numbers without impairing the quality, reliability, or convenience when switching from one Telecommunication Provider to another.
Office of the State Comptroller (OSC)	The New York State Office of the State Comptroller.
Part Number (SKU)	A unique identifier assigned to an individual Product and/or Service or part by the Provider of that Product and/or Service or part; usually includes a combination of alpha and/or numeric characters or may be a unique product name or unique product description. SKUs must be unique and cannot be the same as any other SKU on the pricelist.
Physical Service Connection Charge	A charge that covers the initial installation or physical upgrade of the Telecommunication Connectivity Service from the Telecommunication Provider’s Network to the Authorized User’s Demarcation Point.
Procurement Services	A business unit of OGS, formerly known as New York State Procurement (NYSPRO) and Procurement Services Group (PSG).
Quote	Contractor’s response to an Authorized User’s Request for Quotation (RFQ).
Reseller	A Business Entity that purchases goods or services with the intention of selling them rather than consuming or using them. Also known as Value Added Reseller (VAR) or channel partner. Resellers are specifically excluded from the Scope of this Solicitation.
Sales Agent	A Business Entity or individual who may assist the Telecommunication Provider with selling Services, but must not be authorized to accept orders, invoice, or receive payment, or do any combination of the listed actions.
Shall	Denotes the imperative in a Contract clause or specification. Means required, being determinative/mandatory, as well as imperative. Also see “Must.”
Should	Denotes 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” and “Will.”
Small Business	Please refer to State Finance Law section 160(8) for the definition of “small business concern” or “small business.”
Subsidized Device	Device offered for sale to Authorized Users at an amortized or discounted price as listed on Contractor’s pricelist. See also “Device.”



Term	Definition
Software	A general term for the various kinds of programs used to operate Hardware. Stand-alone Software is excluded from the Scope of this Solicitation and shall not be provided directly to Authorized Users under the resulting Contract.
System	A collection of elements or components that are organized for a common purpose.
Telecommunications	A general term used to describe a vast range of information transmitting technologies.
Telecommunication Provider	A Business Entity that is authorized by the FCC, the FTC, or the PSC, or any combination of the listed commissions to provide Telecommunication Connectivity Services to customers.
Telecommunication Connectivity Services (Services)	Work performed or provided by a Telecommunication Provider within the scope of this Solicitation and resulting Contract to a customer, for a set fee, that allows the customer to transmit its signal or receive signals from others. A Telecommunication Provider must be authorized to perform or provide such work by the FCC, FTC, or PSC, or any combination of the listed commissions.
Third Party Products	Third Party Intellectual Property or Third Party Products means any intellectual property owned by parties other than Authorized User or Contractor and provided to Authorized Users for use in connection with the Services.
Unsubsidized Device	Device offered for sale to Authorized Users at full price as listed on Contractor’s pricelist. See also “Device.”
Usage	The quantity of an inventory item consumed over a period of time expressed in units of quantity or of value in dollars.
Voice Connectivity Services	Telecommunication Connectivity Services that allows customers to transmit or receive vocal communications. A customer’s vocal communication is transmitted from the customer between or among points to specified end users. In turn, a specified end user’s vocal communication is transmitted from the specified end user between or among points to the customer. The Telecommunication Provider, for purposes of transmitting or receiving vocal communications, may convert such vocal communications into Data, so long as there is no change in the form or content of the vocal communications.
Will	Denotes the permissive in a Contract clause or specification. Also see “May” and “Should.”
Written / Written Communication	Written Communication makes use of the written word. Examples of Written Communications include email, Internet websites, letters, proposals, and Contracts.

1.12 APPENDICES AND ATTACHMENTS

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

- Appendix A – Standard Clauses for New York State Contracts (January 2014)
- Appendix B – General Specifications (April 2016)
- Appendix C – Contract Modification Procedure

- Attachment 1 – Administrative Information
- Attachment 2 – Pricing
- Attachment 2b – Taxes, Surcharges, Fees, and Other Charges
- Attachment 3 – Insurance Requirements
- Attachment 4 – Primary Security and Privacy Mandates
- Attachment 5 – Bidder Questions Form
- Attachment 6 – Report of Contract Usage
- Attachment 7 – How to Use
- Attachment 7b – How to Use – RFQ Participation of Interest
- Attachment 7c – How to Use – RFQ Template
- Attachment 7d – How to Use – RFQ Financial Template
- Attachment 7e – How to Use – Physical Service Connection Charge Checklist

## 1.13 CONFLICT OF TERMS

The resulting Contract between the Contractor and the State shall be comprised of a separate document executed by Contractor and OGS incorporating Appendix A, Appendix B, portions of the Solicitation, portions of the successful Bidder's Submission and other documents as may be identified by OGS for inclusion in the resulting Contract.

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

1. Appendix A, Standard Clauses for New York State Contracts (January 2014);
2. The Solicitation;
3. Appendix B, General Specifications (April 2016); and
4. Other Appendices and Attachments.

## Section 2. SCOPE

This Solicitation encompasses the following Lots listed below. All Bidders must be Telecommunication Providers as defined in Section 1.11 Definitions above. Telecommunication Providers must hold all applicable licenses or authorizations, or both from the Federal Communications Commission (FCC), Federal Trade Commission (FTC) or New York State Public Service Commission (PSC), or any combination of the listed commissions required for the Telecommunication Connectivity Services bid on. If a Telecommunication Provider is unable to determine which Lot is appropriate for its Telecommunication Connectivity Service, the Bidder is encouraged to bid all Lots they believe are applicable for their Telecommunication Connectivity Services. OGS will determine as to the appropriate Lot(s) during the evaluation process.

Bidder may bid as follows:

1. For Lot 1, Lot 2, or Lot 3 individually;
2. For any combination of Lot 1, Lot 2, or Lot 3;
3. To offer Telecommunication Connectivity Services within a Lot on a statewide basis;
4. To offer Telecommunication Connectivity Services within a Lot to multiple counties; or
5. To offer Telecommunication Connectivity Services within a Lot to only one county.

All qualified, responsive and responsible Bidders whose pricing indicates that the Telecommunication Connectivity Services offered will be delivered at a reasonable price as determined by OGS are eligible for award.

The Telecommunication Connectivity Services offered under the Lots below must be commercially released Services and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered.

For Scope exclusions, please refer to Section 2.4 – Products and Services Excluded from Scope.

No Telecommunication Connectivity Services at End-of-Life or within 6 months prior to End-of-Life shall be sold.

Information Technology Products and Services sold through other OGS Centralized Contracts shall be excluded from the Scope of this Solicitation. Examples of other OGS Centralized Contracts that include Information Technology Products and Services includes, but is not limited to, the following:

1. Comprehensive Telecommunications Services (WSCA) (Apple iPhone) (Group 77017 Award 22706);
2. Information Technology Umbrella Contract – Distributor Based (Group 73600 Award 22876); and
3. Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802).

### 2.1 LOT 1 – VOICE CONNECTIVITY SERVICES

This Lot includes a wide range of Voice Connectivity Services as defined in Section 1.11 Definitions above, that Authorized Users may require. The Voice Connectivity Services provided must be for both Inbound and Outbound connectivity. The Voice Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. The Telecommunication Provider shall only provide Voice Connectivity Services approved by the FCC and the PSC. The Telecommunication Provider shall only collect, store, or act upon Authorized User Data transmitted through its Voice Connectivity Services with the express Written consent of the Authorized User; except,



where Telecommunication Provider is required to collect, store, or act upon Authorized User Data in order to provide the procured Service.

Contractors that receive an award for this Lot will be eligible to respond to Authorized User's RFQs or Purchase Orders, or both, for Voice Connectivity Services. Authorized Users will procure Telecommunication Connectivity Services either through a formal request for quote process or informal request for quote process. OGS highly recommends that an Authorized User procures Services under this Lot via a competitive RFQ.

Voice Connectivity Services may include but are not limited to the following:

- Telephone Services,
- Voice Over Internet Protocol (VOIP) Service,
- 911 Services,
- Directory Assistance Service,
- Expanded Local Exchange Service,
- Incoming Toll-Free Service,
- International Service,
- Local Exchange Service, or
- Long Distance Services.

## 2.2 LOT 2 – DATA CONNECTIVITY SERVICES

This Lot includes a wide range of Data Connectivity Services, as defined in Section 1.11 Definitions above, that Authorized Users may require. The Data Connectivity Services provided may include connecting to the internet, connecting to an intranet, transmitting or receiving television programming, transmitting or receiving radio signals, or any other services regulated by the FCC or the PSC. All Data Connectivity Services may be utilized for the transmission of Data, Images, Videos and Voice.

The Data Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. The Telecommunication Provider shall only provide Data Connectivity Services approved by the FCC, the FTC, or the PSC, or any combination of the three. The Telecommunication Provider shall not collect, store, or act upon any Authorized User Data transmitted through its Data Connectivity Services.

Contractors that receive an award for this Lot will be eligible to respond to Authorized User's RFQs or Purchase Orders, or both, for Data Connectivity Services. Authorized Users will procure Telecommunication Connectivity Services either through a formal request for quote process or informal request for quote process. OGS highly recommends that an Authorized User procures Services under this Lot via a competitive RFQ.

Data Connectivity Services may include but are not limited to the following:

- Internet Access Services,
- Broadband Services,
- Connectivity Services over Cables,
- Fixed Wireless Services,
- Premises Based IP Address Services, or
- Television Services.

## 2.3 LOT 3 – MOBILE COMMUNICATION CONNECTIVITY SERVICES

This Lot includes a wide range of Mobile Communication Connectivity Services, Accessory Devices, Subsidized Devices, and Unsubsidized Devices as defined in Section 1.11 Definitions above, that Authorized Users may require. The Mobile Communication Connectivity Services may include mobile wireless voice, mobile wireless data, Internet Access, messaging, email communications, Accessory Device, Subsidized Device, Unsubsidized Device, or any other mobile communications transmitted over Bidder's Mobile Network.

The Mobile Communication Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. The Telecommunication Provider shall only provide Mobile Communication Connectivity Services approved by the FCC, the FTC, or the PSC, or any combination of the three. The Telecommunication Provider shall provide Mobile Communication Connectivity Services transmitted over Bidder's Mobile Network. The

Telecommunication Provider shall not collect, store, or act upon any Authorized User Data transmitted through its Mobile Communication Connectivity Services; except, where Telecommunication Provider is required to collect, store, or act upon Authorized User Data in order to provide the procured Service. For example, in order to provide VOIP services, a Telecommunication Provider may need to convert data from one format to another format in order for a telephone call to be completed.

All Devices shall be compatible with the Telecommunication Provider's Mobile Communication Connectivity Services. The Telecommunication Provider may offer Accessory Devices, Subsidized Devices, or Unsubsidized Devices as defined in Section 1.11 Definitions above. If the Telecommunication Provider offers Subsidized Devices or Unsubsidized Devices, then their Mobile Communication Connectivity Service offerings must be labeled as Subsidized or Unsubsidized. The Telecommunication Provider's Subsidized Mobile Communication Connectivity Service offerings may include the cost of a Subsidized Device. The Telecommunication Provider's Unsubsidized Mobile Communication Connectivity Service offerings shall not include the cost of any Devices.

The Telecommunication Provider shall not offer any tablets, laptops, desktops, routers, security devices, or printers as an Accessory Device, Subsidized Device, or Unsubsidized Device. All Devices must meet the requirements of Section 6.15 – Devices below.

Contractors that receive an award for this Lot will be eligible to respond to Authorized User RFQs, or Purchase Orders, or both, for Mobile Communication Connectivity Services. Authorized Users will procure Telecommunication Connectivity Services either through a formal request for quote process or informal request for quote process. OGS highly recommends that an Authorized User procure Services under this Lot via a competitive RFQ.

Mobile Communication Connectivity Services may include but are not limited to the following:

- Voice Service for Cellular Devices,
- Data Service for Cellular Devices,
- Data Service for Non-Cellular Mobile Communication Devices,
- Multimedia Messaging,
- Paging,
- Text Messaging,
- Accessory Devices,
- Subsidized Devices,
- Unsubsidized Devices,
- Mobile Voice Services, or
- Mobile Hot Spots.

## 2.4 PRODUCTS AND SERVICES EXCLUDED FROM SCOPE

This Solicitation and resulting Contract expressly excludes the following from its scope:

1. Alpha, beta, experimental, or unannounced Services;
2. Managed Services
3. Cloud Based Services except for Services sold through Lot 3 – Mobile Communication Connectivity Service;
4. Cloud Solutions;
5. Consulting Services;
6. Installation other than installation associated with a Physical Service Connection Charge;
7. Implementation Services;
8. Products and Services that are available for purchase under other OGS Centralized Contracts;
9. Stand-alone Products (including Software) or Services which are offered for sale or lease with a separate SKU and not necessary to use the Telecommunication Connectivity Services or embedded on the Devices;
10. Leasing or renting of Hardware, Equipment, or Devices;
11. All Hardware which is offered for sale or lease with a separate SKU and not necessary to deliver the Telecommunication Connectivity Services, except Accessory Devices, Subsidized Devices, or Unsubsidized Devices sold through Lot 3 – Mobile Communication Connectivity Service;
12. SKUs that Equate to Blocks of Hours;
13. Use of Resellers; and
14. Staff Augmentation (Stand-Alone Hourly Based Services).

Examples of Products and Services that are available for purchase under other OGS Centralized Contracts and therefore are expressly excluded from this Solicitation includes, but is not limited to, the following:

Products and/or Service	OGS Centralized Contract(s)
Apple iPhones	Comprehensive Telecommunications Services (WSCA) (Apple iPhone) (Group 77017 Award 22706)
Software	Information Technology Umbrella Contract – Distributor Based (Group 73600 Award 22876) Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Hardware, including all tablets, laptops, desktops, or printers	Information Technology Umbrella Contract – Distributor Based (Group 73600 Award 22876) Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Cloud Products	Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Contact Center as a Service	Aggregate Buy RFQ 16.2 under the Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)
Colocation Services	Information Technology Umbrella Contract – Manufacturer Based (Group 73600 Award 22802)

Out of Scope items found on a Contractor’s pricelist will be removed by OGS.

### 2.5 COVERAGE AREAS

This Solicitation seeks to secure Telecommunication Connectivity Service over the entire geographical area of New York State through statewide and county coverage. To enhance competition and ensure timely acquisition of Telecommunication Connectivity Service, to be awarded on a statewide or county basis. Statewide awards shall provide Services to all 62 Counties in New York State. New York State’s 62 Counties are:

Albany	Herkimer	Richmond
Allegany	Jefferson	Rockland
Bronx	Kings	Saratoga
Broome	Lewis	Schenectady
Cattaraugus	Livingston	Schoharie
Cayuga	Madison	Schuyler
Chautauqua	Monroe	Seneca
Chemung	Montgomery	St. Lawrence
Chenango	Nassau	Steuben
Clinton	New York	Suffolk
Columbia	Niagara	Sullivan
Cortland	Oneida	Tioga
Delaware	Onondaga	Tompkins
Dutchess	Ontario	Ulster
Erie	Orange	Warren
Essex	Orleans	Washington
Franklin	Oswego	Wayne
Fulton	Otsego	Westchester
Genesee	Putnam	Wyoming
Greene	Queens	Yates
Hamilton	Rensselaer	

### Section 3. BIDDER REQUIREMENTS AND QUALIFICATIONS

Bidder is advised that the State’s intent in having the requirements listed below is to ensure that only qualified and reliable Telecommunication Providers perform the work of the resulting Contract. Bidder shall have the burden of demonstrating to the satisfaction of OGS Procurement Services that it can perform the work required. OGS 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. All statements made must be able to be independently verified by OGS.

Bidder may rely on operations of a company who has an ownership relationship with the Bidder such as a parent company, subsidiary, predecessor entity, or other similarly related entity for purposes of satisfying the requirements of this

Solicitation. If Bidder is relying on the operations of a related company, they are required to provide a full explanation describing such ownership relationship and how it satisfies the requirements. OGS will determine if the relationship between the related entity and Bidder is sufficient as well as if the related entity's experience satisfies the requirements of this Solicitation. OGS reserves the right to ask for additional information, require a Contract performance guarantee or other assurances from such other entities or the Bidder.

Bidder is reminded to verify the contents of their Bidder Submission are true and accurate before submitting the same to OGS for consideration. Failure to do so may result in the Bidder's Bid being rejected by OGS which would result in a non-award for the Bidder. OGS reserves the right to contact Bidder as needed to obtain or clarify required information that may have been omitted from, or is not clear or possibly incorrect in, the Bidder Submission. If a Bidder fails to respond to OGS or resolve noted issues they may be found as non-responsive and will not be awarded a Contract in relation to this Solicitation.

### 3.1 MINIMUM BIDDER QUALIFICATIONS

A Bidder shall meet the following qualifications:

#### 3.1.1 TELECOMMUNICATION PROVIDER

Bidder must be an established Telecommunication Provider to qualify for an award under Lots 1, 2, or 3 or any combination of the three.

#### 3.1.2 REQUIRED CERTIFICATIONS

To be considered an established Telecommunication Provider under this Solicitation Bidder must hold an applicable license or authorization, or both from the FCC, the FTC, or the PSC, or any combination of the three listed commissions as required for the Services they offer. Bidder must provide documentation that they are listed as active in the PSC Telecommunications Company Critical Information Database. Bidder must provide documentation that they are listed as active in the FCC Form 499 Filer Database. Bidders must submit copies of the licenses or authorizations, or both from the FCC, the FTC, or PSC, or any combination of the three listed commissions they hold in relation to the items that appear on Attachment 2 – Pricing.

If the Bidder's naming convention on the Bidder Submission documentation is not an exact match to the naming convention on the submitted FCC, FTC, or PSC documentation Bidder must provide OGS with a Written explanation as to why the names are different. OGS will determine whether such explanation satisfies the requirement and reserves the right to ask for additional information.

For Services provided under Lot 1 – Voice Connectivity Services Bidder shall provide the above documentation from the FCC or the PSC, or both.

For Services provided under Lot 2 – Data Connectivity Services Bidder shall provide the above documentation from the FCC or the PSC, or both.

For Services provided under Lot 3 – Mobile Communication Connectivity Services Bidder shall provide the above documentation from the FTC or the FCC, or both.

#### 3.1.3 YEARS IN THE INDUSTRY

Bidder Submissions shall only be accepted from established Telecommunication Providers. Bidders must have at least 3 (three) years in continuous operation and experience as a Telecommunication Provider delivering Telecommunication Connectivity Services in the Lot(s) being bid or provide acceptable evidence of experience and expertise in the Services bid. Experience information must be provided in Executive Summary format in Attachment 1 – Administrative Information, Bidder Disclosures tab. At a minimum the Executive Summary must address all of the following:

1. An affirmative statement that Bidder has been in continuous operation for the past three (3) years (from March 2016 to March 2019) providing Telecommunication Connectivity Services.
2. Proof of experience in the delivery of Telecommunication Connectivity Services to Government Entities. Bidder should include in their Executive Summary, at minimum:

- a. Actual number of years/months experience with Governmental Entities; and
- b. A comprehensive list of Government Entities serviced during the time period in subsection a above.

### 3.2 BIDDER REQUIREMENTS

In addition to the above minimum qualifications Bidder shall provide the following requirements.

#### 3.2.1 DESCRIPTION OF SERVICES

Bidder must describe via Attachment 2 – Pricing, Service Description tab the Telecommunication Connectivity Services that it will be offering under each Lot. The Telecommunication Connectivity Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. Bidder's description must include the following regarding the Service being proposed:

1. a detailed narrative;
2. technical specifications;
3. minimum and maximum amount of Data that can be transmitted;
4. information pertaining to the available features;
5. required Network or System specifications that allow the Service to operate;
6. how the Service will be provided, including any Physical Service Connection Charges; and
7. an affirmative statement from the Telecommunication Provider that the described Service is within Scope and does not conflict with the terms and conditions of this Solicitation and the resulting Contract.

OGS reserves the right to make the final determination that the Services offered meet the Scope of the Solicitation.

Bidder's description shall not include any marketing language or marketing materials. If Bidder includes marketing language or marketing materials their response may be found non-responsive.

The Telecommunication Provider shall not offer any Managed Services through this Solicitation and the resulting Contract. The Telecommunication Provider shall not offer any Cloud Based Services through this Solicitation and the resulting Contract except for Services offered through Lot 3 – Mobile Communication Connectivity Services. The Telecommunication Provider shall not offer any Cloud Solutions through this Solicitation and the resulting Contract.

##### 3.2.1.1 LOT 2 – DATA CONNECTIVITY SERVICES

The following requirements shall apply to all Bidder Submissions for Lot 2 – Data Connectivity Services. Bidder must describe in its Description of Services submitted via Attachment 2 – Pricing, Service Description tab how the Service bid meets each of the following requirements.

###### 3.2.1.1(a) SPEED

In addition to providing the above Description of Services, Bidder's proposed Data Connectivity Service offering must include the average speed range of the Service.

###### 3.2.1.1(b) INTERNET ACCESS SERVICES

For the purposes of this Solicitation, Internet Access Services include connectivity and bandwidth options that provide access to the internet backbone directly or indirectly via peering relationships.

In addition to providing the above Description of Services the Bidder must include the bandwidth, protocol options, and CPE requirements for each Internet Access Service being proposed.

Bidder must indicate if it intends to provide any of the following: data communication services, load balancing services, quality of services (QoS), and the ability to segment traffic in conjunction with the Internet Access Services.

### 3.2.1.2 LOT 3 – MOBILE COMMUNICATION CONNECTIVITY SERVICES

The following requirements shall apply to all Bidder Submissions for Lot 3 – Mobile Communication Connectivity Services. Bidder must describe in its Description of Services submitted via Attachment 2 – Pricing, Service Description tab how the Service bid meets each of the following requirements.

#### 3.2.1.2(a) REQUIRED COVERAGE

Bidder's proposed Mobile Communication Connectivity Service offering must provide nationwide coverage in the Continental United States.

Bidder must provide service coverage maps for each of the proposed Services. The service coverage map must depict the proposed Service's availability within New York State, and the United States of America.

Bidder must describe potential coverage area limitations as they apply to the coverage requirements of this section.

#### 3.2.1.2(b) DEVICES

All Devices shall be compatible with Bidder's Mobile Communication Connectivity Services. Bidder may offer Accessory Devices, Subsidized Devices, or Unsubsidized Devices as defined in Section 1.11 Definitions above. If the Bidder offers Subsidized Devices or Unsubsidized Devices, then their Mobile Communication Connectivity Service offerings must be labeled as Subsidized or Unsubsidized. The Bidder's Subsidized Mobile Communication Connectivity Service offerings may include the cost of a Subsidized Device. The Bidder's Unsubsidized Mobile Communication Connectivity Service offerings shall not include the cost of any Devices. All Devices must meet the requirements of Section 6.15 – Devices below.

#### 3.2.1.2(c) RESERVED

#### 3.2.1.2(d) RESERVED

#### 3.2.1.2(e) INTERNET ACCESS SERVICE

For the purposes of this Solicitation, Internet Access Service includes connectivity and bandwidth options that provide access to the internet backbone directly or indirectly via peering relationships.

In addition to providing the above Description of Services the Bidder must include the bandwidth options being proposed for the Internet Access Service.

Bidder must indicate if it intends to provide any of the following: data communication services, load balancing services, quality of services (QoS), and the ability to segment traffic in conjunction with the Internet Access Service.

#### 3.2.1.2(f) SPEED

In addition to providing the above Description of Services, Bidder's proposed Mobile Communication Connectivity Services offering must include the average speed range of the Service as it relates to the transmission of Data.

### 3.2.2 GEOGRAPHIC LOCATION OF THE SERVICE

Bidder must advise of the geographic location (statewide, counties, or county) Bidder is able to provide the Telecommunication Connectivity Service being bid on per Lot via the applicable Geographic Location tabs of Attachment 2 – Pricing.

Once a Bidder receives an Award, they are not permitted to remove a county from their serviceable geographic location.

### 3.2.2.1 GEOGRAPHIC SERVICE COVERAGE – LOT 2

For Lot 2 – Data Connectivity Services Bidder must provide a service coverage map for each of the proposed Services submitted via Attachment 1 – Administrative Information, Bidder Disclosures tab. The service coverage map must depict the proposed Service's availability within New York State.

### 3.2.2.2 GEOGRAPHIC SERVICE COVERAGE – LOT 3

Pursuant to Section 3.2.1.2(a), for Lot 3 – Mobile Communication Connectivity Services Bidder must provide service coverage maps for each of the proposed Services submitted via Attachment 1 – Administrative Information, Bidder Disclosures tab. The service coverage map must depict the proposed Service's availability within New York State and the United States of America.

### 3.2.3 NET NEUTRALITY

In accordance with the requirements of Executive Order No. 175, Bidder will be expected to adhere to net neutrality principles in the provision of broadband internet access services under the resulting Contract, regardless of delivery method unless the Commissioner, or her designee, determines that adherence to net neutrality principles for a particular purpose is not in the best interests of the State. Nothing in this provision supersedes any obligation or authorization a provider of broadband Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so. As used herein, "net neutrality" means that Bidder will not block, throttle, or prioritize internet content or applications or require that end users pay different or higher rates to access specific types of content or application. For the purposes of the resulting Contract, the prohibition against blocking, throttling, or prioritization (other than paid prioritization) of internet content or applications does not apply to reasonable Network management practices.

### 3.2.4 REQUIRED CERTIFICATIONS – NYS

Bidder must submit the signed New York State Required Certifications (Attachment 1 – Administrative Information, NYS Required Certifications tab) with its Bidder Submission.

### 3.2.5 PROPOSED PRICELIST

The prices shown on Bidder's proposed pricelist shall reflect the complete cost of the Services. Pricing for Services shall not be payable by using an amortization schedule. Prices for Services shall not include ancillary costs like installation or Equipment that have been incorporated into the Price. Bidder must submit an Attachment 2 – Pricing according to the Instructions tab listed within Attachment 2 – Pricing.

Attachment 2 – Pricing will be segmented by Lot. Bidder must submit its proposed Services using Attachment 2 – Pricing (Microsoft Excel 2010 or newer). Failure to provide Attachment 2 – Pricing as indicated may deem the Bidder Submission non-responsive and ineligible for Contract award.

A SKU Number is to be provided for every Service or Device, or both on Attachment 2 – Pricing and for all future offerings. Each SKU must be unique. SKUs may be equal to the Service's Name. SKUs must be included in the "SKU Number" Column on Attachment 2 – Pricing. OGS will review Services listed on Attachment 2 – Pricing as part of the evaluation process.

OGS retains the right to modify the Attachment 2 – Pricing for the resulting Contract. For the resulting Contract Bidder's submitted Description of Services will be merged with the Attachment 2 – Pricing to create a Contractor's pricelist.

Bidder's Attachment 2 – Pricing shall only contain plain text. Bidder's Attachment 2 – Pricing shall not include any pictures or photographs. Bidder's Attachment 2 – Pricing shall not include any marketing language or marketing materials. Bidder's Attachment 2 – Pricing shall not include any additional terms and conditions.

#### 3.2.5.1 MONETARY VALUES

All monetary values shall be in U.S. Dollar amounts and not exceed 4 decimal points (For Example - \$1.1234).

### 3.2.5.2 DISCOUNT PERCENTAGE VALUES

All Discount percentage values shall not exceed two decimal places (For Example - 20.25222% shall be rounded to nearest one hundredth 20.25%). A Discount Percentage value cannot be expressed as a range (For Example - 10%-20%, or “varies”).

### 3.2.5.3 VOLUME DISCOUNTS

Bidder is encouraged to offer Volume Discounts on their submitted Attachment 2 – Pricing.

### 3.2.5.4 DISCOUNTS

All Discounts shown on the Bidder’s Attachment 2 – Pricing shall not be decreased by the Contractor during the resulting OGS Centralized Contract, Authorized User Agreements, or Purchase Orders.

Discounts shown on the Bidder’s Attachment 2 – Pricing may be increased by the Contractor at any time during the resulting OGS Centralized Contract, Authorized User Agreements, or Purchase Orders.

### 3.2.5.5 EXCLUSION OF ADDED COSTS INCLUDING TAXES, SURCHARGES, FEES, AND OTHER CHARGES

Authorized Users are exempt from payment of most taxes and related charges. For example, under NYS Tax Law sections 1116(a)(1) and (2) all New York governmental entities (the state of New York and any of its agencies, instrumentalities, public corporations or political subdivisions) are exempt from paying New York State sales taxes. (See also Appendix B, Taxes.) Accordingly, listed net prices are limited only to the charge for the Product or Service and shall not include any taxes, surcharges, fees or other charges.

Bidders seeking to invoice Authorized Users for taxes, surcharges, fees or other charges in addition to the charge for the Product or Service bear the burden of establishing the legal authority for such charges to the satisfaction of OGS. Bidders shall use Attachment 2b – Taxes, Surcharges, Fees, and Other Charges to propose the pass through of specific taxes, surcharges, fees or other charges for OGS approval. All instructions in Attachment 2b – Taxes, Surcharges, Fees, and Other Charges are to be followed.

Only taxes, surcharges, fees or other charges approved in advance by OGS may be passed through to Authorized Users on the Contractor’s invoice. Contractors shall itemize each OGS approved tax, surcharge, fee or other charge passed through on Authorized User’s invoice. Contractors shall not summarize or bundle such items on Authorized User’s invoice.

Contractor shall not charge Authorized Users for taxes, surcharges, fees or other charges at a rate exceeding the rate shown on the approved Attachment 2b – Taxes, Surcharges, Fees, and Other Charges. Contractor may charge Authorized Users for taxes, surcharges, fees or other charges at a rate lower than the rate shown on the approved Attachment 2b – Taxes, Surcharges, Fees, and Other Charges. Contractors seeking approval for new pass through charges during the term of the Contract will be asked to include the information set forth in Attachment 2b – Taxes, Surcharges, Fees, and Other Charges in their submission pursuant to Appendix C - Contract Modification Procedure. Contractor shall not charge Authorized Users at the new pass through charge rate until their Appendix C Modification has been approved by OGS.

### 3.2.5.6 PRICE INCREASES

Pricing included in Attachment 2 – Pricing submitted with the Bidder Submission 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. Price increases are subject to all Contract update provisions included within Appendix C – Contract Modification Procedure.

### 3.2.5.7 COMPLETE PRICE

Pricing included in Attachment 2 – Pricing submitted with the Bidder Submission shall reflect the complete cost of the Services. Pricing for Services shall not be payable by using an amortization schedule. Prices for Services shall not include ancillary costs like installation or Equipment that have been incorporated into the Price.



### 3.2.5.8 PHYSICAL SERVICE CONNECTION CHARGE

When applicable, Bidders bidding on Voice Connectivity Services or Data Connectivity Services, or both, may charge a Physical Service Connection Charge to Authorized Users. This Physical Service Connection Charge shall cover the initial installation or physical upgrade of the Telecommunication Connectivity Service from the Telecommunication Provider's Network to the Authorized User's Demarcation Point.

The work shall only occur on the exterior of a building. However, if an Authorized User's Demarcation Point is located on the interior of a building, then a portion of the work shall also occur on the interior of the building. In this case only the interior work shall only occur from the point where the Telecommunication Provider's public Network enters the building to the Authorized User's Demarcation Point.

Not-to-exceed pricing for the Physical Service Connection Charge will be entered as multiple components via Attachment 2 – Pricing. These components should include all potential aspects of a Physical Service Connection project and may include but are not limited to: poles, trenching, conduits, per-foot cabling, and boring. The Physical Service Connection Charge includes Last Mile. The price for the Physical Service Connection Charge shall not be payable by using an amortization schedule.

### 3.2.5.9 GSA ASSOCIATED DISCOUNTS

Where the NYS Net Price is based upon an approved GSA supply schedule then New York State shall be entitled to all associated Discounts enumerated in the GSA supply schedule (including, but not limited to Discounts for additional sites and volume Discounts), as well as any other pricing or Discount terms as are expressly enumerated in this NYS Contract or GSA supply schedule, when calculating the NYS Net Price.

Bidder shall submit all associated Discounts enumerated in the GSA supply schedule via Attachment 1 – Administrative Information, Bidder Disclosures tab.

### 3.2.5.10 GSA INDUSTRIAL FUNDING FEE

GSA pricing incorporates a sum referred to as the "GSA Industrial Funding Fee (IFF)". If the Bidder provides GSA pricing they shall identify the amount of the IFF.

Bidder shall submit all associated IFFs via Attachment 1 – Administrative Information, Bidder Disclosures tab.

### 3.2.5.11 PROMPT PAYMENT DISCOUNTS

If a Bidder offers a Discount for prompt payment, the Contractor shall include the terms of the Discount on all invoices, the amounts which are due if the Authorized User meets the terms, and the number of days for which the prompt payment Discount offer applies. Bidder will submit their prompt payment Discount percentage and time frame to OGS via Attachment 1 – Administrative Information, Bidder Disclosures tab.

## 3.2.6 REASONABLENESS OF PRICE

NYS Net Pricing offered in Attachment 2 – Pricing will be reviewed by OGS to assess reasonableness of price. Bidders are encouraged to offer their best possible pricing. Bidders shall submit one or more forms of acceptable documentation of reasonableness of price set forth below. Subject to OGS's reserved rights in the Solicitation, the Contract pricelists referenced below will be accepted as documentation of reasonableness of price. Bidders should carefully read the instructions to Attachment 2 – Pricing to be sure that all information requested therein is provided and that proposed pricing is equal to or better than the applicable pricelist referenced below.

To determine reasonableness of price for a Service, OGS will compare the price of the SKU listed on Attachment 2 – Pricing with the price of the same SKU (handwritten or otherwise) found on one of the acceptable forms of documentation listed in Section 3.2.6.1 below. Bidder shall complete Columns Q through T using the information from the reasonableness of price documentation for each SKU submitted on Attachment 2 – Pricing. The price of the SKU listed on Attachment 2 – Pricing must be equal to or less than the price of the same SKU (handwritten or otherwise) as found on documentation. Any SKU not meeting reasonableness of price may be removed from Bidder's Attachment 2 – Pricing.

OGS reserves the right to conduct additional research and request additional information to assess the reasonableness of price. If reasonableness of price is not demonstrated to OGS's satisfaction, the Bidder Submission may be deemed non-responsive and ineligible for Contract award. Additionally, OGS reserves the right to require the Bidder to lower its offered pricing to that which OGS has determined to be reasonable price and to remove items from Bidder's pricelist for which pricing is determined not to be reasonable.

All required information contained in reasonableness of price documentation should be free of restrictions on confidentiality or claims of confidentiality. OGS will not enter into a Non-Disclosure Agreement (NDA) for Bidders who assert that information contained in their reasonableness of price documentation is confidential.

### 3.2.6.1 ACCEPTABLE DOCUMENTATION OF REASONABLENESS OF PRICE

Acceptable documentation of reasonableness of price, in order of preference, is the following:

#### 1. FEDERAL CONTRACT PRICELIST

1. Contract must have been awarded on a Best Price basis (or equivalent);
2. Contract must have been executed by the Government Entity;
3. Contract pricelist will be the most currently approved or the pricelist in effect at contract expiration;
4. If contract has expired, the expiration date of the Contract shall be no more than 1 year prior to the date of this Solicitation release; and
5. Contract and contract pricelist (both in searchable PDF or Excel spreadsheet) will be included with Bidder Submission.

#### 2. OTHER GOVERNMENT ENTITY OR NYS CONTRACT PRICELIST

1. Contract must have been executed by NYS or the Government Entity;
2. Contract pricelist will be the most currently approved or the pricelist in effect at contract expiration;
3. If contract has expired, the expiration date of the Contract shall be no more than 1 year prior to the date of this Solicitation release; and
4. Contract and contract pricelist (both in searchable PDF or Excel spreadsheet) will be included with Bidder Submission.

#### 3. PAID INVOICES OR RECEIPTS FROM GOVERNMENT ENTITIES

1. Paid invoices (amounts have been paid and funds have been collected) of Services from the same Lot (s) in response to this Solicitation;
2. Paid invoices are to be provided in searchable PDF;
3. Sufficient information to be included on the invoice to identify the qualifying Lot Service(s) including the following:
  - a) Government Entity;
  - b) Description of Qualifying Lot Service(s);
  - c) SKU or unique Service name, or unique detailed description of Service); and
  - d) Net price of each qualifying item;
4. Invoice date must be no more than 12 months prior to the date of this Solicitation release; and
5. All paid invoices will be included with Bidder Submission.

#### 4. NYS CENTRALIZED CONTRACT PRICELIST OR SALES REPORTS

1. Contract must have been executed by NYS;
2. Contract pricelist will be the most currently approved or the pricelist in effect at contract expiration;
3. An itemized Sales Report for an OGS Centralized Contract would be accepted in lieu of the pricelist as well;
4. If contract has expired, the expiration date of the Contract shall be no more than 1 year prior to the date of this Solicitation release;
5. Contract and either the contract pricelist or the Sales Report (both in searchable PDF or Excel spreadsheet) will be included with Bidder Submission.

## 5. MANUFACTURER SUGGESTED RETAIL PRICE (MSRP)

1. Only acceptable if proof from options 1 – 4 is not available;
2. MSRP (or equivalent) must be available to Bidder's commercial customers;
3. MSRP must be submitted as a searchable PDF;
4. Pricing based upon an MSRP may be reviewed every 6 months;
  - o When available, New York State prices based upon a MSRP should be replaced by equal or lesser prices based upon documents shown via options 1 – 4 above;
5. OGS retains the right to reject MSRP as justification of price.

### 3.2.7 CONTRACTOR'S INSURANCE REQUIREMENTS

Bidder must procure at its sole cost and expense and provide with its Bidder Submission all proof of required insurance as detailed in Attachment 3 – Insurance Requirements.

The Contractor shall maintain in force at all times during the Contract Term, policies of insurance pursuant to the requirements outlined in Attachment 3 – Insurance Requirements.

Awarded Bidders must provide OGS (and the Authorized Users if requested) with valid proofs of insurance throughout the life of the resulting Contract. For example, prior to the expiration of an existing General Liability Policy Awarded Bidders are required to submit proof of coverage for the next applicable time period (i.e. year) to OGS (and Authorized Users if applicable).

### 3.2.8 NEW YORK STATE VENDOR FILE REGISTRATION

Prior to being awarded a Contract pursuant to this Solicitation, the Bidder and any authorized Subcontractors who accept payment directly from the State, must 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 must 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 must enter its Vendor ID on the first page of this Solicitation. Authorized resellers already registered should list the Vendor ID number along with the authorized reseller information.

If the Bidder is not currently registered in the Vendor File, the Bidder must request assignment of a Vendor ID from OGS. Bidder must 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 Bidder Submission. Please send this document to the Designated Contact identified in the Solicitation. 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 email 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)

### 3.2.9 NEW YORK STATE 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 resulting 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./vendrep/vendor\\_index.htm](http://www.osc.state.ny.us./vendrep/vendor_index.htm) or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us> .

Vendors must 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 must 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 resulting Contract that Section 7.11 - Contractor Responsibility shall apply for the duration of the Contract Term.

### 3.2.10 NEW YORK STATE 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 [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The ST-220-TD can be found at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://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 Bidder 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 <http://www.tax.ny.gov/> for additional information.

Please remember to input the Covered agency name as "New York State Office of General Services", with the Covered agency address of "38th Floor, Corning Tower, Empire State Plaza, Albany, NY 12242" and the Covered agency telephone number of "518-474-6717" on the ST-220-CA.

### 3.2.11 MWBE EEO – 100

The Bidder shall also include the completed and signed Forms EEO 100 – Staffing Plan as part of their Bidder Submission. Form EEO 100 – Staffing Plan is available via <https://ogs.ny.gov/mwbe/Forms.asp> .

### 3.2.12 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NYS 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 the resulting 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>

#### 3.2.13 ADDITIONAL INFORMATION

OGS retains the right to require the Bidder to provide any additional information deemed necessary to ascertain whether the Bidder Submission complies with the scope and terms of the Solicitation and resulting Contract.

### 3.3 ADDITIONAL BIDDER REQUIREMENTS

#### 3.3.1 DESIGNATED PERSONNEL / CONTACT INFORMATION

The Bidder will provide the following Designated Personnel for the duration of the resulting Contract at no charge to the State. Information regarding the Designated Personnel will be set forth in Attachment 1 – Administrative Information, Contractor Designated Personnel tab. During the Contract Term and until the end of any related Authorized User Agreements or Purchase Orders, Contractor must notify OGS within five (5) Business Days if its Designated Personnel change and provide interim contact personnel until the position is filled. Contractor may submit a Designated Personnel change electronically via email per the instructions contained in Appendix C – Contract Modification Procedure. The Designated Personnel must have the authority to act on behalf of the Contractor.

##### 3.3.1.1 ACCOUNT MANAGER

The Account Manager shall be responsible for the overall relationship with the State during the Contract Term and shall act as the central point of contact.

##### 3.3.1.2 CONTRACT ADMINISTRATOR

The Contract Administrator shall be responsible for the updating and management of the resulting Contract on a timely basis.

##### 3.3.1.3 SALES MANAGER

The Sales Manager shall be responsible for the overall relationship with the Authorized Users for matters relating to RFQs or Purchase Order, or both.

##### 3.3.1.4 BILLING CONTACT

The Billing Contact shall be responsible for serving as the single point of contact between the Contractor and the Authorized User for matters related to invoicing, billing and payment.

##### 3.3.1.5 DISCONNECT CONTACT

The Disconnect Contact shall be responsible for serving as the single point of contact between the Contractor and the Authorized User when the Authorized User wishes to disconnect a Service or feature.

##### 3.3.1.6 EMERGENCY CONTACT

The Emergency Contact shall be responsible for being available 24 hours a day, 365 days per year for emergencies occurring after business hours or on weekend/holidays.



### 3.3.1.7 TOLL FREE NUMBER

Contractor shall provide a toll-free telephone number for use by Authorized Users. Contractor shall staff this toll-free number at a minimum from 9:00 AM to 5:00 PM Monday through Friday Eastern Time, excluding New York State or federal holidays. This number shall be provided at no cost to the State.

### 3.3.1.8 SINGLE POINT OF CONTACT

The Contractor shall serve as the Single Point of Contact (SPOC) for the Authorized User for all issues regarding Services, even if Contractor uses sales agents, Subcontractors, affiliates, or partners to provide such Services.

## 3.3.2 ESCALATION PROCEDURES DURING SERVICE REPAIR

Contractors will provide escalation procedures to address inadequate repair of the purchased Service. These escalation procedures must include multiple levels of management personnel. Access to additional management personnel must be made available to OGS upon request. In addition, these procedures must include:

1. a list of personnel at each level of escalation (titles/positions in place of specific individual names is acceptable);
2. contact telephone, email, cellular numbers for the personnel listed above;
3. methods by which escalation is initiated and conducted; and
4. criteria for escalation at each level.

## 3.3.3 ORGANIZATIONAL INFORMATION

Bidder will submit a copy of the IRS letter CP575B or a 147C letter to confirm that Legal Name and Federal Employer Identification Number of the bidding entity. OGS reserves the right to request this information, or equivalent, at any time during the Contract Term.

## 3.3.4 E-RATE

Authorized Users who receive E-Rate funding are encouraged to review Universal Service Fund rules and regulations to verify the applicability of the resulting Contract to the E-Rate program.

## Section 4. BIDDER SUBMISSION

### 4.1 FORMAT AND CONTENT OF BIDDER SUBMISSION

The complete Bidder Submission package must be received by OGS Procurement Services by the date and time of the Bid opening. Late Bidder Submissions may be rejected. Any Bidder Submission 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 Bidder Submission documents in Excel format, only those cells provided for entering Bidder Submission pricing and information are to be accessed by the Bidder.

Email or facsimile Bidder Submissions are not acceptable.

It is recommended that the Bidder open, review and save/download all electronic files to the Bidder's hard drive or a secure back-up, or do both. Only completed files (in the specified format) should be saved to a USB flash drive.

Bidders are responsible for the accuracy of their Bidder Submissions. All Bidders are directed to take extreme care in developing their Bidder Submissions. Bidders are cautioned to carefully review their Bidder Submissions prior to submitting the Bidder Submission. A Bidder Submission that fails to conform to the requirements of the Solicitation may be considered non-responsive and may be rejected.

The Bidder Submission should have consistent information. Bidder's Legal Business Name, Bidder's Federal Tax Identification Number, and Bidder's NYS Vendor Identification Number must be identical throughout their Bidder Submission. In particular Bidder should pay attention to the following documents:

- a. Solicitation, pages 1-3;
- b. Attachment 1 - Administrative Information, Bidder Information tab;
- c. Attachment 2 – Pricing, Bidder Information tab;



- d. Attachment 2b –Taxes, Surcharges, Fees, and Other Charges, Bidder Information tab;
- e. All proof of compliance with Attachment 3 – Insurance Requirements;
- f. Substitute W-9 (if applicable);
- g. Standard Vendor Responsibility Questionnaire;
- h. ST-220CA, Contractor Certification; and
- i. Form MWBE EEO- 100, Equal Employment Opportunity Staffing Plan.

#### 4.2 CONTENT

A complete Bidder Submission consists of the following Electronic and Hardcopy requirements as well as the information requested within Section 3 Bidder Requirements and Qualifications. Failure to submit a Bidder Submission per the instructions may result in delay of submission review and may result in the Bidder being found non-responsive.

##### 4.2.1 ELECTRONIC BIDDER SUBMISSIONS

Electronic media will be included on Microsoft Windows formatted USB flash drives and must be clearly labeled. USB flash drives (2.0 or higher) cannot be password protected or require the installation of software to read files. All Bidder Submissions shall be saved in separate unprotected files in Microsoft Office products (Word and Excel) in product release 2010 or higher, or searchable PDF as indicated below.

Each electronic file submission will be externally labeled in the following manner:

**Bidder Name, # 23100**

Three digital storage devices (USB flash drives 2.0 or higher), clearly labeled containing the following documents, completed in their entirety, signed and scanned where applicable:

- a. Pages 1, 2, and 3 of this Solicitation (signed and scanned) (PDF);
- b. Completed Attachment 1 – Administrative Information (Excel);
  - i. Bidder Information (Excel);
  - ii. Bidder Agreements (Excel);
  - iii. Bidder Disclosures (Excel);
    - 1. Documentation of PSC Telecommunications Company Critical Information Database (PDF);
    - 2. Documentation of FCC Form 499 Filer Database (PDF);
    - 3. Executive Summary (PDF);
    - 4. Coverage Map – Lot 2 (If Applicable) (PDF);
    - 5. Coverage Map – Lot 3 (If Applicable) (PDF);
  - iv. NYS Required Certifications (Excel);
    - 1. NYS Required Certifications with Signature (PDF);
  - v. EO 175 Certification (Mandatory for Lot 2 - Data Connectivity Services and Lot 3 - Mobile Communication Connectivity Services)(Excel);
    - 1. EO 175 Certification with Signature (PDF);
  - vi. Bidder Checklist (PDF);
  - vii. Encouraging NYS Business (PDF);
  - viii. FOIL Redaction (Excel);
  - ix. Use of SDVOB (Excel);
  - x. Contractor Designated Personnel (Excel);
  - xi. Proof of Ownership Relationship (Mark with N/A or equivalent if Not Applicable) (Excel);
    - 1. Copy of a Document Explaining the Bidder's Ownership Structure (If Applicable) (PDF);
- c. Completed Attachment 2 – Pricing (for all Products/Services offered in the Bidder Submission) (Excel);
  - i. Bidder Information (Excel);
  - ii. Bidder Certification (Excel);
    - 1. Bidder Certification with Signature (PDF);
  - iii. Pricing – Lot 1 Voice (If Applicable) (Excel);
    - 1. Proof of Reasonableness of Price (PDF);
  - iv. Geographic Location – Lot 1 (If Applicable) (Excel);
  - v. Service Descriptions – Lot 1 (If Applicable) (Excel);
  - vi. Pricing – Lot 2 Data (If Applicable) (Excel);
    - 1. Proof of Reasonableness of Price (PDF);

- vii. Geographic Location – Lot 2 (If Applicable) (Excel);
- viii. Service Descriptions – Lot 2 (If Applicable) (Excel);
- ix. Pricing – Lot 3 Mobile (If Applicable) (Excel);
  - 1. Proof of Reasonableness of Price (PDF);
- x. Geographic Location – Lot 3 (If Applicable) (Excel)
- xi. Service Descriptions – Lot 3 (If Applicable) (Excel);
- d. Completed Attachment 2b – Taxes, Surcharges, Fees, and Other Charges (for all applicable taxes, surcharges, fees, and other charges for all Products/Services offered in the Bidder Submission) (Excel);
  - i. Bidder Information (Excel);
  - ii. Taxes, Surcharges, Fees, and Other Charges (Excel);
    - 1. Copy of Pertinent Section Referenced in Column G (Documentation of Taxes, Surcharges, Fees, and Other Charges) (PDF);
- e. Proof of compliance with Attachment 3 – Insurance Requirements (PDF);
- f. Substitute W-9 (If Applicable) (PDF);
- g. Standard Vendor Responsibility Questionnaire (completed and scanned to PDF) or Certification that Questionnaire has been completed online (PDF);
- h. Completed ST-220CA, Contractor Certification (notarized with signatures) (PDF);
- i. Completed Form MWBE EEO- 100, Equal Employment Opportunity Staffing Plan (PDF).

#### 4.2.2 HARDCOPY BIDDER SUBMISSIONS

Bidders shall clearly identify the Bidder's legal Business Entity name and any assumed business name (d/b/a) used (for example 123 Corporation d/b/a 456 Telecom) as well as the name and number of the Solicitation ("Telecommunication Connectivity Services, Group # 77017, Solicitation # 23100") on the outside front cover of each copy. If the Bidder Submissions are submitted in a loose-leaf binder, this information should also appear on the spine of the binder.

Three sets of completed hardcopy Bidder Submissions, with original signatures and notarizations, clearly labeled as "Originals," containing the following documents, completed in their entirety, signed in black or blue ink, and notarized where required:

- a. Pages 1, 2, and 3 of this Solicitation;
- b. Completed Attachment 1 – Administrative Information;
  - i. Bidder Information;
  - ii. Bidder Agreements;
  - iii. Bidder Disclosures;
    - 1. Documentation of PSC Telecommunications Company Critical Information Database;
    - 2. Documentation of FCC Form 499 Filer Database;
    - 3. Executive Summary;
    - 4. Coverage Map – Lot 2 (If Applicable);
    - 5. Coverage Map – Lot 3 (If Applicable);
  - iv. NYS Required Certifications with Signature;
  - v. EO 175 Certification with Signature;
  - vi. Bidder Checklist;
  - vii. Encouraging NYS Business;
  - viii. FOIL Redaction;
  - ix. Use of SDVOB;
  - x. Contractor Designated Personnel;
  - xi. Proof of Ownership Relationship (Mark with N/A or equivalent if Not Applicable);
    - 1. Copy of a Document Explaining the Bidder's Ownership Structure (If Applicable);
- c. Completed Attachment 2 – Pricing (for all Products/Services offered in the Bidder Submission);
  - i. Bidder Information;
  - ii. Bidder Certification with Signature;
  - iii. Pricing – Lot 1 Voice (If Applicable);
    - 1. Proof of Reasonableness of Price;
  - iv. Geographic Location – Lot 1 (If Applicable);
  - v. Service Descriptions – Lot 1 (If Applicable);
  - vi. Pricing – Lot 2 Data (If Applicable);
    - 1. Proof of Reasonableness of Price;

- vii. Geographic Location – Lot 2 (If Applicable);
- viii. Service Descriptions – Lot 2 (If Applicable);
- ix. Pricing – Lot 3 Mobile (If Applicable);
  - 1. Proof of Reasonableness of Price;
- x. Geographic Location – Lot 3 (If Applicable);
- xi. Service Descriptions – Lot 3 (If Applicable);
- d. Completed Attachment 2b – Taxes, Surcharges, Fees, and Other Charges (for all applicable taxes, surcharges, fees, and other charges for all Products/Services offered in the Bidder Submission);
  - i. Bidder Information;
  - ii. Taxes, Surcharges, Fees, and Other Charges;
    - 1. Copy of Pertinent Section Referenced in Column G (Documentation of Taxes, Surcharges, Fees, and Other Charges);
- e. Proof of compliance with Attachment 3 – Insurance Requirements;
- f. Substitute W-9 (If Applicable);
- g. Standard Vendor Responsibility Questionnaire or Certification that Questionnaire has been completed online;
- h. Completed ST-220CA, Contractor Certification;
- i. Completed Form MWBE EEO- 100, Equal Employment Opportunity Staffing Plan.

Please note that in the case of discrepancies between hardcopy and electronic submissions of the documents required in both formats, the electronic copy shall take precedence over the hardcopy.

Bidders 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 Solicitation requirements. Bidders remain responsible for reviewing the Attachments to ensure compliance with the Solicitation requirements.

#### 4.2.3 DOCUMENTS NOT REQUIRED WITH BIDDER SUBMISSION

The following documents have been provided for informational purposes only and will be used upon Contract Award by Contractor and Authorized User. **These documents are not required with a Bidder Submission.**

- 1. Appendix A – Standard Clauses for New York State Contracts (January 2014)
- 2. Appendix B – General Specifications (April 2016)
- 3. Appendix C – Contract Modification Procedure
- 4. Attachment 4 – Primary Security and Privacy Mandates
- 5. Attachment 6 – Report of Contract Usage
- 6. Attachment 7 – How to Use
- 7. Attachment 7b – How to Use – RFQ Participation of Interest
- 8. Attachment 7c – How to Use – RFQ Template
- 9. Attachment 7d – How to Use – RFQ Financial Template
- 10. Attachment 7e – How to Use – Physical Service Connection Charge Checklist

#### 4.3 BIDDER SUBMISSION ENVELOPES AND PACKAGES

All Bidder Submissions should have a label on the outside of the package or shipping container outlining the following information:

<p><b>BID ENCLOSED</b> Solicitation 23100 Solicitation Due: DATE 11:00 AM Number of Boxes or Packages: ___ of ___.</p>
--

Failure to complete all information on the Bidder Submission envelope or package may necessitate the opening of the Bidder Submission prior to the scheduled Bid opening date. If a Bidder fails to provide such information on the envelope or shipping material, OGS reserves the right to open the shipping package or envelope to determine the proper Solicitation number, and the date and time of Bid opening. Bidder shall have no claim against OGS arising from such opening and such opening shall not affect the validity of the Bidder Submission or the Solicitation.

#### 4.4 BIDDER SUBMISSION DELIVERY

Bidder Submissions shall be delivered to the following address on or before 11:00 a.m. ET, on or before the Bid opening date:

**Office of General Services  
New York State Procurement Services  
38<sup>th</sup> Floor Corning Tower  
Empire State Plaza  
Albany, NY 12242**

Bidder assumes all risks for timely, properly submitted deliveries. The time of Bidder Submission receipt is determined by OGS according to the clock at the above-noted location. A Bidder is strongly encouraged to arrange for delivery of Bidder Submissions to OGS prior to the date of the Bid opening. Late Bids may be rejected. All Bids and accompanying Documentation shall become the property of the State of New York and shall not be returned.

#### 4.5 IMPORTANT BUILDING ACCESS PROCEDURES

To access the Corning Tower, all visitors must check in by presenting photo identification at the information desk. Delays may occur due to a high volume of visitors. Visitors conducting Procurement Services business are encouraged to pre-register for building access by contacting the Procurement Services receptionist at (518) 474-6262 at least 24 hours prior to the visit. Visitors who are not pre-registered will be directed to a designated phone to call the Procurement Services receptionist. The receptionist will register the visitor at that time, but delays may occur. Building access procedures may change or be modified at any time.

#### 4.6 PUBLIC BIDDER SUBMISSION OPENING

Bids may be opened publicly. OGS reserves the right to postpone or cancel a scheduled Bid opening at any time. Bidders attending Bid openings are encouraged to pre-register for building access by contacting the Procurement Services Group's (PSG) receptionist at 518-474-6262 at least 24 hours prior to the Bid opening.

#### 4.7 BIDDER SUBMISSION OPENING RESULTS

Procurement Services posts Bidder Submission information on the OGS web page. The web page makes selected information available about the Solicitation. Such information is anticipated to be available online within two (2) Business Days after the Bid opening.

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

#### 4.8 BIDDER SUBMISSION LIABILITY

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

#### 4.9 FIRM OFFER

Bidder Submissions must remain an effective offer, firm and irrevocable, for at least one hundred eighty (180) Calendar Days from the due date, unless the time for awarding the resulting Contract is extended by mutual consent of OGS and the Bidder. A Bidder Submission shall continue to remain an effective offer, firm and irrevocable, subsequent to such one hundred eighty (180) Calendar Day period until either tentative award of the resulting Contract by OGS is made or withdrawal of the Bid in writing by the Bidder is made, whichever comes first.

#### 4.10 DEBRIEFING

Pursuant to Section 163(9)l of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) Calendar Days of notification by OGS that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the Solicitation.

## 4.11 NEW YORK STATE RIGHTS

### 4.11.1 NEW YORK STATE RESERVED RIGHTS

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

- A. Reject any or all Bids received in response to the Solicitation;
- B. Withdraw the Solicitation at any time at the sole discretion of the State;
- C. Make an award under the Solicitation in whole or in part;
- D. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of the Solicitation;
- E. Seek clarifications and revisions of the Bid;
- F. Amend the Solicitation 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 Solicitation 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 Solicitation 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 Solicitation;
- 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 Solicitation;
- 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. Make no award for any Product, region, or lot, as applicable, for reasons including, but not limited to, unbalanced, unrealistic or excessive Bidder pricing, a change in Authorized User requirements and/or Products, or an error in the Solicitation (e.g., use of incorrect reference, pack size, description, etc.). In such case, evaluation and ranking of Bids may be made on the remaining Products, regions, or lots;
- 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;
- W. Award Contracts on a rolling or staggered start basis, either in whole or in part. Contracts awarded in this method shall be coterminous with the first Contract awarded as a result of this Solicitation;
- X. Unilaterally make revisions, changes and/or updates to any templates, Appendices (excluding Appendices A and B), and/or Attachments to the OGS Centralized Contract without processing a formal amendment and/or modification;
- Y. Exclude any pricelists or individual Products and services that do not fall within the scope of the Solicitation;
- Z. OGS reserves the right to use on-line processes, such as reverse auction, to make acquisitions under the resulting Contracts. Bidder agrees that if awarded a Contract, it will participate in these on-line processes established by OGS;
- AA. OGS reserves the right to incorporate an electronic workflow system that may include elements of the Authorized User RFQ process;
- AB. OGS reserves the right to post Authorized User Contract usage of the Contracts resulting from this Solicitation;
- AC. Upon discovery of non-material completeness or conformance issues with a Bidder Submission, contact the Bidder to attempt to cure the issue prior to completion of the evaluation of the Bidder's Submission; and

- AD. OGS reserves the right to request a copy of an IRS letter CP575B, a 147C letter, or equivalent to confirm that Bidder's Legal Name and Federal Employer Identification Number match the information submitted in the Bidder's Bidder Submission at any time during the Contract Term.

#### 4.11.2 AUTHORIZED USER RESERVED RIGHTS

In addition to the above reserved rights, the Authorized User shall have the following additional reserved rights:

- A. To add requirements to an Authorized User Agreement that are more advantageous than the terms and conditions established with the resulting Contract;
- B. To require the Contractor to identify any Subcontractors, and to approve such Subcontractors; and
- C. To request the Contractor's insurance policy language for purposes of substantiating Contractor's compliance with Attachment 3 – Insurance Requirements, or such other Insurance Requirements as required by the Authorized User as part of an RFQ.

#### 4.12 INCORPORATION

Portions of the successful Bidder's Bidder Submission and of this Solicitation shall be incorporated into a final Contract. The final Contract shall be a separate document executed by Contractor and OGS having its own provisions governing conflict of terms.

## Section 5. AWARDS

### 5.1 METHOD OF AWARD

All qualified, responsive, and responsible Bidders whose pricing indicates that Services offered shall be delivered at a reasonable price as determined by OGS are eligible for award.

### 5.2 CONTRACT START DATE

OGS will start Contracts on a rolling basis. Bidder Submissions which do not require the submission of clarifying information or documentation from the Bidder will be awarded first. Bidder Submissions which require clarification will be awarded as issues are resolved. During the first phase of awards, for each Lot, it is OGS's intent to award at least five (5) Contracts or twenty percent (20%) of the total Bidder Submissions passing the administrative review, whichever is greater.

### 5.3 PERIODIC RECRUITMENT

This Solicitation allows for periodic recruitment of additional Contractors during the term of the resulting Contract. Recruitment periods are optional at the discretion of the State. The purpose of future Periodic Recruitments may be to:

1. Add new Lots for additional or emerging technologies; or
2. Add new Contractors to existing and new Lots; or
3. Add both.

Additional recruitment periods will be advertised in the NYS Contract Reporter. Bidder must register with the New York State Contract Reporter at <https://www.nyscr.ny.gov> in order to receive notifications regarding any periodic recruitments under this Solicitation. Unless otherwise deemed necessary, Bids shall be evaluated under substantially the same terms and conditions as the original Bids. Bidders shall also be required to submit necessary documentation for any additional applicable statutory requirements in effect at the time of the new Solicitation. For future Contracts awarded according to this section under the provisions of the Periodic recruitment section, to obtain emerging technologies, where need is proven by Authorized Users, the requirements above may be modified.

For Contracts that are awarded under periodic recruitment, the Contract Term will commence upon execution of the resulting Contract by OGS as evidenced by the date accompanying the OGS signature line. Contracts will co-terminate with the resulting Contracts from this Solicitation, or at the end of any approved extension or renewal period.

Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration for Services covered by the scope of the awarded Contract. In addition, if a Bid is deemed non-responsive during the initial Solicitation or any recruitment period, a Bidder cannot reapply for a future Contract until the next recruitment period.

#### 5.4 NOTIFICATION OF AWARD

Tentative award of the Contract shall consist of Written notice to that effect by OGS to a selected Bidder, who shall execute a Contract upon a determination by OGS that the Bidder is responsive and responsible.

Non-award of the resulting Contract shall consist of Written notice to that effect by OGS to a Bidder whose Bid was not selected for award.

### **Section 6. SERVICE TERMS AND CONDITIONS**

The following terms and conditions shall apply to all Telecommunication Connectivity Services provided under the resulting Contract, regardless of the Lot they fall under.

#### 6.1 SERVICE DESCRIPTION

In addition to providing a brief description of the offered Service on the pricelist, in its response to an Authorized User RFQ Contractor must provide a more detailed description of the Service being proposed, information pertaining to required features as well as additional features that are available to the Authorized User.

Contractor must describe the Telecommunication Connectivity Services that it will be providing to the Authorized User. The Telecommunication Services provided must be commercially released and available for purchase through the Telecommunication Provider's normal marketing channels. An alpha, beta, experimental, or unannounced Service shall not be offered. Contractor's description must include the following regarding the Service being provided:

1. a detailed narrative;
2. technical specifications;
3. minimum and maximum amount of Data that can be transmitted;
4. information pertaining to the available features;
5. required Network or System specifications that allow the Service to operate;
6. how the Service will be provided, including any Physical Service Connection Charges; and
7. an affirmative statement from the Telecommunication Provider that the described Service is within Scope and does not conflict with the terms and conditions of this Solicitation and the resulting Contract.

OGS reserves the right to make the final determination that the Services offered meet the Scope of the Contract. Contractor's description shall not include any marketing language or marketing materials.

The Telecommunication Provider shall not offer any Managed Services through this Solicitation and the resulting Contract. The Telecommunication Provider shall not offer any Cloud Based Services through this Solicitation and the resulting Contract except for Services offered through Lot 3 – Mobile Communication Connectivity Services. The Telecommunication Provider shall not offer any Cloud Solutions through this Solicitation and the resulting Contract.

#### 6.2 PHYSICAL SERVICE CONNECTION CHARGES

When applicable, Contractors offering Voice Connectivity Services or Data Connectivity Services, or both, may charge a Physical Service Connection Charge to Authorized Users. This Physical Service Connection Charge shall cover the initial installation or physical upgrade of the Telecommunication Connectivity Service from the Telecommunication Provider's Network to the Authorized User's Demarcation Point.

The work shall only occur on the exterior of a building. However, if an Authorized User's Demarcation Point is located on the interior of a building, then a portion of the work shall also occur on the interior of the building. In this case only the interior work shall only occur from the point where the Telecommunication Provider's public Network enters the building to the Authorized User's Demarcation Point.

The Physical Service Connection Charge includes Last Mile. All prices shall not be payable by using an amortization schedule.

### 6.2.1 STANDARDS AND CODES

The Contractor shall meet or exceed the standards, or successors thereof, that apply to connecting the requested Telecommunication Connectivity Service as established by local law, New York State Law, PSC, FCC, or FTC.

### 6.2.2 LICENSES AND PERMITS

Contractor shall be responsible for obtaining and maintaining in good standing all licenses, permits, inspections, and related fees as required by the State, county, municipality, or any other Government Entity to connect the requested Telecommunication Connectivity Service.

### 6.2.3 PRE-INSTALLATION SITE VISITS

Under Appendix B, Site Inspection, Authorized User may require a site visit. Contractors shall not charge an Authorized User for a pre-installation site visit.

### 6.2.4 ON-SITE WORK

Contractor shall, at all times during the progress of the work, keep the site free from accumulation of waste matter, rubbish, and debris. At the completion of the work, all excess materials shall be removed from the site.

The Contractor shall at all times during the progress of the work, keep the corridors free from accumulation of waste matter, rubbish, and debris. Access for State personnel must be maintained at all times and meet the prescribed fire and safety regulations.

The Contractor shall provide all necessary safety equipment, if applicable or required by prevailing codes. Contractor's employees must wear these items when required. If Contractor's employees do not comply with these requirements, they will be asked to leave, and the Contractor will be responsible to make up any time lost. All safety equipment must be provided at no additional cost to the State.

Services performed on-site by Contractor's personnel shall be rendered according to additional requirements as determined by the Authorized User.

### 6.2.5 EXISTING INFRASTRUCTURE

Unless otherwise agreed to in writing by an Authorized User, existing infrastructure shall be utilized to connect the requested Telecommunication Connectivity Service. Contractor shall use the least invasive method possible to install the components necessary to connect an Authorized User's Demarcation Point to the requested Telecommunication Connectivity Services.

If the Contractor encounters subsurface or other latent physical conditions during the installation of the Physical Service Connection, which results in additional charges to complete the Physical Service Connection, Contractor will be responsible for such charges unless the existing infrastructure in question is owned by the Authorized User.

### 6.2.6 ACCESS TO CABLE

Contractors connecting the requested Telecommunication Connectivity Service must install cables in such a way that allows for more than one Telecommunication Provider to provide Telecommunication Connectivity Services to a premise. Competing Telecommunication Providers must be able to access cables located at or prior to the Demarcation Point.

### 6.2.7 CABLE PLACEMENT RECORDS

Contractor shall provide Authorized Users with details of where the cable is located on the Authorized User's premises. This information should also point out any applicable circuits, boxes, connectors, or adaptors. This may be provided via Written notice, diagrams, formal blueprints or any method as required by the Authorized User.



## 6.2.8 REPAIR AND MAINTENANCE PLAN

The Telecommunication Provider shall provide for the repair and Maintenance of the cables, wiring, and associated Equipment because connecting the requested Telecommunication Connectivity Service shall only occur from the Telecommunication Provider's public Network to the Authorized User's Demarcation Point.

## 6.2.9 RESTORATION OF WORK AREAS

Unless otherwise agreed to in writing with the Authorized User, prior to completing the installation, Contractor is required to reasonably return all work areas back to their original condition. This may include but is not limited to:

1. Reconnecting any utilities, equipment, or appliances; and
2. Removing all debris generated by the installation.

## 6.3 INTEROPERABILITY

Contractors offering a Telecommunication Connectivity Service must allow for interoperability between Devices and Networks unless otherwise agreed to in writing by an Authorized User. When full interoperability is not viable Contractor must advise an interested Authorized User in writing of the Devices, Services, Networks, and Providers that will interoperate with their Services as well as those that will not.

Telecommunication Connectivity Services must interoperate with other services utilized by Authorized Users. Contractor must advise an Authorized User, in writing prior to agreeing to provide a Service, if their offered Service will not interoperate with other services. The Authorized User will determine if the lack of interoperability is acceptable. In the event that the lack of interoperability becomes an issue throughout the Service the Authorized User retains the right to cancel the Service without incurring a penalty.

Contractor must work with Authorized User to determine whether or not a particular Service will be sufficient to meet an Authorized User's needs. Contractor shall include a statement regarding interoperability in every response to an Authorized User's request for quote, whether formal or informal.

## 6.4 RESERVED

## 6.5 NO TERMINATION FEES

Contractor must not impose any termination fees for Services provided under the resulting Contract.

## 6.6 NO CHANGE SERVICE FEES

Contractor must not impose any fees for changing an existing Service (such as an upgrade or downgrade of plan).

## 6.7 SERVICE PERIOD

Contractor must not impose any minimum Service period for Services requested pursuant to the Contract resulting from this Solicitation, except for promotional pricing available to all Authorized Users which has been approved in advance by OGS through the Appendix C - Contract Modification Procedure process.

## 6.8 SUBCONTRACTORS

Contractor may permit Subcontractors to provide Services to Authorized Users provided that Authorized Users agree to Contractor's use of Subcontractors. If Contractor is going to use Subcontractors, then the following provisions shall apply.

### 6.8.1 PRIOR KNOWLEDGE OF AUTHORIZED USER

Contractors shall disclose in their responses to a formal request for quote or informal request for quote the legal names and addresses of any Subcontractors that may be used to complete the Services. Subcontractors shall only be permitted to perform the Services if the Authorized User agrees in the Authorized User Agreement, or Purchase Order.

## 6.8.2 CONTRACTOR RESPONSIBILITY FOR SUBCONTRACTORS

The following requirements shall supplement the requirements of Appendix B, Employees, Subcontractors and Agents, and Subcontractors and Suppliers:

1. The Contractor shall not be relieved of any responsibility under the Contract by any subcontract.
2. The Contractor shall be solely responsible to the State and Authorized User for the acts or defaults of its Subcontractor and 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.
3. Any Services provided or furnished by a Subcontractor shall be deemed for purposes of the Contract to be provided or furnished by the Contractor.
4. The Contractor shall inform each Subcontractor fully and completely of all provisions and requirements of the Contract, including:
  - a. those relating either directly or indirectly to the Services to be provided pursuant to its respective subcontract;
  - b. to maintain and protect against any unauthorized disclosure of records with respect to work performed under the subcontract in the same manner as required of the Contractor;
  - c. those relating to the State's rights to audit records; and
  - d. to cooperate with any investigation, audit, or other inquiry related to the Contract or any litigation relating thereto.

Contractor agrees that every such subcontract shall expressly stipulate that all labor performed pursuant thereto shall strictly comply with the requirements of the Contract and that no subcontract shall impair the rights of the State or Authorized User or create any contractual relationship between the Subcontractor and the State or Authorized User.

5. Failure to disclose the identity of any and all Subcontractors used by the Contractor as required hereunder may, at the sole discretion of the Authorized User, result in a disqualification of the Subcontractor, if not immediately cured, or may result in termination of the Authorized User Agreement or Purchase Order for cause.
6. The Contractor shall pay all Subcontractors for and on account of Services provided by such Subcontractors according to the terms of their respective subcontracts. If required by the State or Authorized User, the Contractor shall submit satisfactory evidence that it has made such payment.
7. The Contractor shall, within five (5) Business Days of the State or Authorized User Written request, file promptly with the requestor a copy of any subcontract providing Services for an Authorized User Agreement or Purchase Order.
8. The Contractor shall require that the Subcontractor must pass through all terms and conditions of the Contract, including but not limited to Appendix A, to any lower tier subcontractors.
9. The Contractor shall pay invoices to Subcontractors that provide Services during the Contract Term, Authorized User Agreement term, or Purchase Order term, whichever is longer, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract, shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

## 6.9 SALES AGENTS

Contractor may permit Sales Agents to sell Services on behalf of the contractor to Authorized Users that are on the Contractor's OGS pricelist. Contractor may permit Sales Agents to communicate with Authorized Users. Contractor must directly receive all orders and payments from Authorized Users. Contractor must directly send all invoices to Authorized Users. Contractors must not authorize Sales Agents to accept orders, send invoices, or receive payment from Authorized Users, or do any combination of the three.

## 6.10 THIRD PARTY NETWORK FACILITIES

Contractor may be requested by OGS or an Authorized User to identify the locations within the State of New York served by 3<sup>rd</sup> party Network facilities and the identity of the 3<sup>rd</sup> party Network facilities providers.

## 6.11 UNIFORM SERVICE DELIVERY

Contractor may advise if it provides a single Network to assure consistent communication and message delivery. Contractor may be requested by OGS or an Authorized User to include in this description how it will provide consistent communication and message delivery statewide, regionally, and nationwide as well as any roaming and travel agreements with other service providers to achieve the required coverage.

## 6.12 COVERAGE GUARANTEE

Contractor may be required by OGS or an Authorized User to describe how it will maintain comprehensive, dependable, and uniform coverage for its Service. This description must include contingency plans for Network failure, transmission site failure, satellite failure (if applicable) and power failure as well as how Contractor insures survivability and service continuity in the event of natural disasters or acts of God.

If requested, Contractor must describe how it monitors and evaluates its Service's technological ability and performance, how it minimizes gaps in coverage, and its methods of limiting access and insuring authentication. Authentication shall mean the process of establishing confidence in the identity of users or information Systems.

## 6.13 NETWORK SECURITY ADMINISTRATION

If requested by OGS or an Authorized User, Contractor must have Services in place to ensure security of its Network and to any Devices provided through the resulting Contract to an Authorized User. Contractor must advise the Authorized User of the retention periods for messages (text, voice, image/video) and numbers called/received. As part of a request for quote, whether formal or informal, Authorized Users may require that all Data in transit shall be handled according to ITS Policy NYS-S14-007 (or successor) or the National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS)-140-2 or Transport Layer Security (TLS) 1, or TLS2 (or successor).

Contractor may be required by OGS or an Authorized User to provide a Service Organization Control 3 (SOC 3) report or a high level narrative detailing information regarding their Network Security. This narrative may include, but not be limited to, details regarding the following:

1. Procedures to ensure the security of its Network;
2. Measures employed to limit access to unauthorized users;
3. Policies to eliminate or limit the risk of fraud;
4. Procedures to decrease the risk of sabotage;
5. Address air interface security to prevent unauthorized eavesdropping;
6. Implemented standards for switch site security systems,
7. Utilization of security personnel and patrols;
8. Existence of Password – Managed Software Systems; and
9. Live continuous monitoring of the Network and all its components.

This information may be shared with Authorized Users or the New York State Office of Information Technology Services.

If requested by OGS or an Authorized User the Contractor must describe, the programs, policies, and standards it has implemented to ensure the security of its Network, including the use of switch site security Systems, security personnel and patrols, password-managed software Systems, and live continuous monitoring of the Network and all components.

## 6.14 RESERVED

## 6.15 DEVICES

Devices shall only be sold through Lot 3 – Mobile Communication Connectivity Services. Contractor must label Devices on its pricelist as either Accessory, Subsidized, or Unsubsidized. Contractor shall only sell Accessory Devices,

Subsidized Devices, or Unsubsidized Devices. All Devices shall be compatible with Contractor's Mobile Communication Connectivity Services.

Contractor shall not offer any tablets, laptops, desktops, routers, security devices, or printers as an Accessory Device, Subsidized Device, or Unsubsidized Device.

If Contractors sell Subsidized Devices or Unsubsidized Devices, then Contractors must label their Mobile Communication Connectivity Service offerings as Subsidized or Unsubsidized.

#### 6.15.1 ACCESSORY DEVICE

Contractors offering Mobile Communication Connectivity Services may offer Accessory Devices that are compatible with their Mobile Communication Connectivity Service offerings.

If an Authorized User selects an Accessory Device, then Bidder shall charge Authorized User for Unsubsidized Mobile Communication Connectivity Service for the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

#### 6.15.2 SUBSIDIZED DEVICE

If Contractors sell Subsidized Devices, then Contractors must label their Mobile Communication Connectivity Service offerings as Subsidized. Contractor may include the cost of a Subsidized Device in the pricing for their Subsidized Mobile Communication Connectivity Service offerings. If an Authorized User purchases a Subsidized Device, then Bidder shall charge Authorized User for Subsidized Mobile Communication Connectivity Service through either a Subsidized – Amortized Plan or a Subsidized – Discount Plan. Contractor may offer a Subsidized – Amortized Plan, a Subsidized – Discount Plan, or both for each of its Mobile Communication Connectivity Service offerings. Contractor must label all Subsidized Mobile Communication Connectivity Service plans as either Subsidized – Amortized or Subsidized – Discount.

##### 6.15.2.1 SUBSIDIZED – AMORTIZED PLAN

If an Authorized User purchases a Subsidized Device to be used in conjunction with a Subsidized – Amortized Plan, then Bidder shall charge Authorized User for the selected Subsidized – Amortized Plan for Mobile Communication Connectivity Service for a commercially reasonable term. The commercially reasonable term shall be the period necessary for the Contractor to recover the subsidized amount. On the month after the commercially reasonable term expires, Bidder shall automatically discontinue invoicing Authorized User for a Subsidized – Amortized Plan and begin invoicing Authorized User for Unsubsidized Mobile Communication Connectivity Service for the remainder of the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

##### 6.15.2.2 SUBSIDIZED – DISCOUNTED PLAN

If an Authorized User purchases a Subsidized Device to be used in conjunction with a Subsidized – Discounted Plan, then Bidder shall charge Authorized User for the selected Subsidized – Discounted Plan for Mobile Communication Connectivity Service for the remainder of the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

#### 6.15.3 UNSUBSIDIZED DEVICE

If Contractors sell Unsubsidized Devices, then Contractors must label their Mobile Communication Connectivity Service offerings as Unsubsidized. Contractor shall not include the cost of any Devices in the pricing for their Unsubsidized Mobile Communication Connectivity Service offerings.

If an Authorized User purchases an Unsubsidized Device, then Bidder shall charge Authorized User for Unsubsidized Mobile Communication Connectivity Service for the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

#### 6.15.4 BRING YOUR OWN DEVICE

Authorized Users may desire or require receiving a requested Telecommunication Connectivity Service via a Device that is owned by the Authorized User's employee. Contractor shall not implement undue restrictions or refuse to comply with such a request unless the make and model of the Device in question is not compatible with the Telecommunication Connectivity Service.

If an Authorized User brings their own Device, then Bidder shall charge Authorized User for Unsubsidized Mobile Communication Connectivity Service for the Contract Term, or until Authorized User purchases a new Device or cancels the Service.

#### 6.15.5 ATTACHMENT 2 – PRICING

Contractor shall only include the following Devices on their Attachment 2 – Pricing: Accessory Devices, Subsidized Devices, or Unsubsidized Devices.

#### 6.15.6 TRADE IN ALLOWANCES

If requested by the Authorized User, and commercially available, Contractor must provide a trade in allowance credit for Devices owned by the Authorized User. This trade in allowance must be a credit based on the market value of the Device.

#### 6.15.7 ACCESSORIES TO DEVICES

Contractor may include accessories to approved Devices on their Attachment 2 – Pricing, Pricing – Lot 3 Mobile tab. Each individual accessory must be labeled and must indicate the Device Name that it is compatible with in the Device Specifications column on Attachment 2 - Pricing.

#### 6.16 RESERVED

#### 6.17 VOICE DATA CONVERSION

In order for certain Voice Connectivity Services to function, Contractors may be required to act upon Authorized User Data to convert it from one format to another format in order to transmit voice calls to the public switched telephone Network or another Telecommunications Network. Contractor must provide Authorized User with prior notice that they are required to act upon the Authorized User's Data. Contractor shall not collect or store any Authorized User Data transmitted through these Services. Contractor may only act upon Authorized User Data to allow transmission through these Services. For all other Voice Connectivity Services, Contractor shall not act upon Authorized User Data.

Traditional analog Voice Connectivity Services allow Authorized Users to transmit voice calls from their telephone devices to the public switched telephone Network without requiring Contractors to act upon Authorized Users' Data. Some modern Voice Connectivity Services require the Contractor to first convert the Authorized User's Data from one format to another format in order to transmit voice calls from the Authorized User's telephone device to the public switched telephone Network, or another Telecommunications Network.

For example, Voice Over Internet Protocol (VoIP) Services uses an IP packet format to transmit voice calls. Therefore, the Contractor must first convert the Authorized User's Data into IP packets before the Contractor can transmit the Authorized User's voice call to the Telecommunications Network.

#### 6.18 TELEPHONE NUMBER SELECTION

All telephone numbers provided as a Voice Connectivity Service or applicable Mobile Communication Connectivity Service must be based in the United States of America unless otherwise agreed in writing by the Authorized User.

Contractor will provide the ability for the Authorized Users to select the area code (NPA) with which their mobile wireless telephone number is associated.

Contractor shall include a statement regarding telephone number selection in every response to an Authorized User's request for quote, whether formal or informal.

## 6.19 DIALING PLAN

All Voice Connectivity Services or applicable Mobile Communication Connectivity Services provided by Contractor must adhere to all standards for the North American and International dialing plans. Contractor must state to the Authorized User whether local calls within the same calling area will require a 7 digit (NXX+XXXX) or 10 digit (NPA+NXX+XXXX) dialing plan.

Contractors offering international calls must provide Services that conform to the international dialing plan of the International Telecommunications Union (ITU).

## 6.20 NUMBER PORTABILITY

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide for Number Portability with its proposed Service at no charge. Number Portability must allow for Authorized Users to retain telephone numbers when changing from current carriers to the Contractor's Services as well as from the Contractor's Service to another carrier.

## 6.21 VOICEMAIL

If requested by the Authorized User, Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide basic voicemail to Authorized Users at no additional cost. Contractor may provide at a minimum two (2) SKUs for each of the Voice Connectivity Services that it offers. One SKU may provide the Voice Connectivity Service with Voicemail. The other SKU may provide the Voice Connectivity Service without Voicemail.

The voicemail must at a minimum provide Authorized User the following: answer an incoming telephone call, allow the incoming caller to record a message, allow the Authorized User to review the incoming caller's message, allow the Authorized User to save or delete the incoming caller's message, allow the Authorized User to record a greeting, and allow the Authorized User to use a standard greeting.

Contractor shall not collect, or act upon any Authorized User Data transmitted through voicemail. Contractor may store Authorized User Data transmitted through voicemail. However, Contractor shall not listen or act upon stored Authorized User Data, unless directed to do so by the Authorized User.

## 6.22 INTERCEPT MESSAGES

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide intercept messages and referrals to be associated with a number that has been disconnected. These intercept messages must include, but not be limited to, the following:

1. Number Dialed Not in Service;
2. Number Dialed Not in Service with Referral to New Number (10 Digit Format);
3. Number Dialed Temporarily Out of Service.

Contractor will advise the Authorized User of the intercept messages that they may provide.

Contractor must provide intercept messages and referrals for a minimum of 6 months from the date of disconnection, unless otherwise specified by the Authorized User Agreement, at no cost.

## 6.23 ALL-ACCESS TYPE REQUIREMENTS

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide for the processing of calls using Dual Tone Multi-Frequency (DTMF) signals or Touch Tone service.

## 6.24 ACCESS TO NEW YORK STATE AND FEDERAL RELAY SERVICE

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide access to the New York State Relay Service and the Federal Relay Service at no cost.

## 6.25 EMERGENCY 911 CALLS

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must provide a Service that meets the compatibility requirements for all emergency and enhanced 911 services within New York State as well as delivery of required calling number and location identification to the required Public Safety Answering Point (PSAP).

The Americans with Disabilities Act (ADA) requires all PSAPs to provide direct, equal access to their services for people with disabilities who use a TeleTYpewriter (TTY). PBX Systems that support 911 access to emergency services have the necessary programming to enable three-digit dialing to Telecommunications Relay Services (TRS) centers. In response to an Authorized User's request for quote, whether formal or informal, Contractor must describe how it complies with the ADA while allowing for Emergency 911 calls.

## 6.26 ACCESS TO TOLL FREE SERVICE

Contractors offering Voice Connectivity Services or applicable Mobile Communication Connectivity Services must meet industry standards for compatibility with all toll-free geographic codes and local exchanges. This includes, but is not limited to, 800/888/877/866/855 geographic codes. The Contractor must provide Service that allows the Authorized User to place calls to all toll-free telephone numbers at no cost.

## 6.27 TEMPORARY SUSPENSION OF SERVICE

Temporary suspension of Telecommunication Connectivity Services may be enacted by Authorized Users. If requested by OGS or an Authorized User, Contractor may suspend and reactivate Telecommunication Connectivity Services to an Authorized User.

Contractor is encouraged to provide Temporary Suspension of Service as a service offering on its pricelist. If Contractor offers Temporary Suspension of Service, then they must, as applicable:

- (1) provide an intercept message providing such notification to the general public;
- (2) allow an Authorized User to use the same telephone number;
- (3) not physically terminate the Service installed at the Authorized User location; and
- (4) activate the suspended Service within 24 to 48 hours notice by the Authorized User.

After the Temporary Suspension of Services period, Authorized Users will be able to continue to use the same level of Telecommunication Connectivity Services that they utilized prior to the Temporary Suspension of Services.

If Contractor charges Authorized User for Temporary Suspension of Services, then Contractor must not charge Authorized User additional reactivation charges for the Temporary Suspension of Services. The time period of the Temporary Suspension of Services may vary and will be determined with Authorized Users at the time that Service is initiated.

## 6.28 REQUIRED COVERAGE – MOBILE COMMUNICATION CONNECTIVITY SERVICES

When responding to Authorized Users' request for quote, whether formal or informal, Contractors offering Mobile Communication Connectivity Services must provide nationwide coverage in the continental United States. Contractor's proposed Mobile Communication Connectivity Service offering must provide nationwide coverage in the continental United States.

Contractor must provide service coverage maps for each of the proposed Services. The service coverage map must depict the proposed Service's availability within New York State and the United States of America.

Contractor must describe potential coverage area limitations as they apply to the coverage requirements of this section.

## 6.29 RESERVED

### 6.29.1 RESERVED

### 6.29.2 RESERVED

### 6.29.3 RESERVED

## 6.30 INTERNET ACCESS SERVICES

When responding to Authorized Users' request for quote, whether formal or informal, for Internet Access Services, Contractors offering Data Connectivity Services or applicable Mobile Communication Connectivity Services must briefly describe its Internet Access. Internet Access Services shall include connectivity and bandwidth options that provide access to the internet backbone directly or indirectly via peering relationships.

If requested by an Authorized User, Contractor will provide data communication services, load balancing services, quality of services (QoS), and the ability to segment traffic in conjunction with the Internet Access Services.

### 6.31 RESERVED

### 6.32 SPEED

When responding to Authorized User request for quote, whether formal or informal, Contractors offering Data Connectivity Service or applicable Mobile Communication Connectivity Service must include the average speed range of the Service as it relates to the transmission of Data. The average speed range must match the Description of the Service as included on the Contractor's pricelist. When responding to Authorized User RFQs or Purchase Orders, Contractor must include the method by which Authorized Users may verify the average speed of the Service.

The Authorized User has the right to monitor the speed of the line and require Service credits if the Contractor's average speed falls below the stated average speed range. Service credits must be applied against the next scheduled billing cycle as a separate line item.

### 6.33 RESERVED

## 6.34 NETWORK MANAGEMENT

Contractors providing Data Connectivity Services or applicable Mobile Communication Connectivity Services must explain in writing information such as their congestion management, application-specific behavior, Device attachment rules, and security practices to the Authorized User and, if requested, to OGS.

Contractor must explain in writing how real-time monitoring of the Service and notification of possible issues is conducted (e.g., alarm notification or performance statistics) to the Authorized User and, if requested, to OGS.

### 6.34.1 CONTRACTOR'S NETWORK

Contractor must perform control, monitoring, and Maintenance of its Network which supports the Services including, but not limited to, addressing Network failure (full and component), Network overload, Network performance monitoring, or alert management.

Contractor must explain in writing how proactive monitoring, trouble ticketing, and user notification is performed on the Contractor's Network to the Authorized User and, if requested, to OGS.

### 6.34.2 NETWORK LATENCY/BANDWIDTH

Contractor shall submit a latency guarantee of bandwidth/distance to an Authorized User and, if requested, to OGS.

In addition, Contractor must explain in writing any Network latency in the Telecommunication Connectivity Service to the Authorized User and, if requested, to OGS.

### 6.34.3 ERROR CHECKING TECHNIQUE

Contractor must explain in writing how the proposed Network supports its error checking technique to the Authorized User and, if requested, to OGS.



#### 6.34.4 SERVICE DISRUPTION DURING INSTALLATION

Contractor must provide an Authorized User a Written plan to minimize Service disruptions when converting the Authorized User from its existing Service to any new Service.

#### 6.35 SERVICE LEVELS

Contractor must monitor all Telecommunication Connectivity Services that it provides to Authorized Users. At a minimum, Contractor must provide the following service levels. In an RFQ Authorized Users may request additional service levels.

##### 6.35.1 NETWORK UPTIME

Unless otherwise agreed to in the Authorized User Agreement, Contractor's Service must have a minimum Network uptime of 99.99% and be available 24 hours a day, 7 days a week. Network uptime shall be calculated using the following formula:

$$U=O/(M-P)*100$$

U is Uptime, O is the amount of minutes that the Service is operational during the month, M is the number of minutes in the month, and P is the number of minutes of actual planned downtime during the month.

Any downtime that may be required for Network Maintenance, upgrade, or changes must be completed during low usage volume times, such as during the Authorized User's non-business hours.

##### 6.35.2 UPGRADES

Unless otherwise agreed to in the Authorized User Agreement, the Contractor shall give a minimum of five (5) Business Days advance Written notice to the designated Authorized User contact of any upgrades, or Network changes that may potentially impact Services.

Upgrades, or Network changes which are required by Network vulnerabilities or emergency situations shall be carried out by the Contractor immediately. Contractor shall notify Authorized User as soon as possible once the Network vulnerabilities or emergency situations have been resolved.

Contractor shall provide Written documentation of upgrades, or Network changes upon request from an Authorized User.

#### 6.36 MAINTENANCE AND SUPPORT

Contractor shall comply with the following requirements regarding Maintenance and support.

##### 6.36.1 MAINTAINING OF CONTRACTED SERVICES

Contractors must provide the necessary labor, parts, materials, and transportation to maintain all Services provided under the resulting Contract in good working order at no cost to the Authorized User.

##### 6.36.2 CATEGORIES OF MAINTENANCE/SUPPORT SERVICES

New York State utilizes various Telecommunications Connectivity Services for a myriad of purposes. Some of these Services are critical to the Authorized Users operation and public safety. Contractors must comply with the following categories for Maintenance/support of its Services:

1. Critical Maintenance/Support;
2. Urgent Maintenance/Support; and
3. Low priority Maintenance/Support.

Prior to finalizing an Authorized User Agreement or issuing a Purchase Order, Authorized User and the Contractor must meet to determine which Services are to be designated for each of the Maintenance categories listed above. During this same meeting, Authorized User and the Contractor must determine, for each of the Maintenance

categories listed above, any specific criteria that is necessary for maintaining the Services. The Authorized User must ensure that all purchased Services are placed in one of these Maintenance categories. The Authorized User must include the final determination and specific criteria in the finalized Authorized User Agreement or Purchase Order.

#### 6.36.2.1 CRITICAL MAINTENANCE/SUPPORT REQUIREMENTS

Contractor must provide critical Maintenance/support for those Services designated by the Authorized User as being critical.

For purposes of this Section, critical shall mean those Services that the Authorized User has indicated as being priority for the Authorized User's operations, or that relate to public health and safety. Contractor must also provide critical Maintenance/support for complete Service outages, or Service issues having a severe impact on Authorized User's operations or public health and safety.

#### 6.36.2.2 URGENT MAINTENANCE/SUPPORT REQUIREMENTS

Contractors must provide urgent Maintenance/support for those Services designated by the Authorized User as urgent.

For purposes of this Section, urgent Services shall mean all Services that the Authorized User has indicated as being important for the Authorized User's operations.

Contractor must also provide urgent Maintenance/support for partial Service outages, or Service issues having a significant impact on Authorized User's operations.

#### 6.36.2.3 LOW PRIORITY MAINTENANCE/SUPPORT REQUIREMENTS

Contractors must provide low priority Maintenance/support for those Services designated by the Authorized User as low priority.

For purposes of this Section, low priority Services shall mean all Services that the Authorized User has indicated as being required for the Authorized User's operation.

Contractor must also provide low priority Maintenance/support for Service issues having no direct impact on Authorized User's operations.

#### 6.36.3 RESPONSE AND REPAIR TIMES FOR SERVICE ISSUES

Unless otherwise agreed to in the Authorized User Agreement, the Contractor shall respond to Service issues and repair such issues in accordance with the time frames listed in the following table.

MAINTENANCE/SUPPORT CATEGORY	RESPONSE TIME	REPAIR TIME
Critical	30 minutes or less	3 hours or less
Urgent	1 hour or less	5 hour or less
Low Priority	2 hours or less	24 hours or less

Contractor shall respond and repair Service issues regardless of whether or not the Contractor was at fault in causing such issues. Contractor shall respond and repair Service issues according to the above table regardless of the time of day or day of week (including holidays).

Response time shall begin to be counted at the time that an Authorized User reports a Service issue to the Contractor, or the Contractor determines that a Service issue exists on its own. Response Time ends when the Contractor commences performing repair services on the Service issue.

Repair time shall begin to be counted at the time that the Contractor starts performing repair services on the Service issue. Repair time ends when the Service issue is resolved, and the Authorized User's Services have returned to good working order by meeting all Service requirements.

There may be instances when a Contractor is unable to repair the affected Service within the above time frames. If Contractor is unable to repair a Service issue within the specified time frame, then Contractors must provide a Written plan of repair to the Authorized User. Contractor's Written plan of repair must at a minimum include an estimated time of completion, explain why they are unable to meet the time frames, and describe how Contractor will provide alternative Service until completion of the repair.

#### 6.36.4 SERVICE HOURS

Hours of operation vary between Authorized Users. The Contractor must determine the actual hours for Service required by the Authorized User. This may include a request by the Authorized User to provide Service 24 hours-a-day, 7 days-a-week, 365 days a year.

#### 6.36.5 MAINTENANCE/SUPPORT SERVICE SHEETS

Contractor shall furnish a Maintenance/support service sheet for all support requests to the Authorized User and, if requested, to OGS. At a minimum, the Maintenance/support service sheet should include the following information for each request:

1. Maintenance/Support Category
2. Date and time issue began;
3. Date and time issue reported or discovered;
4. Date and time Contractor responded to the issue;
5. Description of the issue;
6. Description of the Maintenance/support performed by Contractor to repair the issue;
7. Date and time Contractor repaired the issue; and
8. Charges for the Maintenance/support, if applicable.

#### 6.36.6 ACCESS TO MAINTENANCE/SUPPORT REPORTING

The Contractor must provide a toll-free telephone number to the Authorized User for the reporting of issues. This issue reporting telephone number must be staffed to receive issue reports 24 hours-a-day, 7 days-a-week, 365 days a year.

## Section 7. GENERAL TERMS AND CONDITIONS

The following terms and conditions shall apply to all Contractors, regardless of the Telecommunication Connectivity Services being provided under the resulting Contract.

### 7.1 APPENDIX A

Appendix A, Standard Clauses For New York State Contracts, dated January 2014, attached hereto, is hereby incorporated in, and expressly made a part of this Solicitation. **Please retain this document for future reference and do not return to OGS as part of the Bidder Submission.**

### 7.2 APPENDIX B

Appendix B, Office of General Services General Specifications, dated April 2016, attached hereto, is hereby incorporated in, and expressly made a part of this Solicitation. **Please retain this document for future reference and do not return to OGS as part of the Bidder Submission.**

### 7.3 CONFLICT OF TERMS

The resulting Contract will be comprised of the following documents. Conflicts among the documents in the resulting Contract shall be resolved in the following order of precedence:

1. Appendix A, Standard Clauses for New York State Contracts (January 2014);
2. The resulting Contract;
3. Appendix B, General Specifications (April 2016);
4. Other Appendices and Attachments;

5. Authorized User Agreement or Purchase Order; and
6. Any other Written agreement between the Contractor and the Authorized User.

#### 7.4 CONTRACT TERM AND EXTENSIONS

Contractor shall comply with the following requirements regarding the Contract Term and/or Contract Extensions.

##### 7.4.1 BASE TERM

The resulting Contract will be in effect for a term of up to 5 years from the date of commencement of the first award. The Contract Term shall commence after all necessary approvals and shall become effective upon mailing or electronic communication of the final executed documents to the Contractor (See Appendix B, Contract Creation/Execution).

All OGS Centralized Contracts resulting from this Solicitation shall have a coterminous end date, including those Contracts award during any subsequent periodic recruitment. At the State's option, the resulting Contract may be extended for 5 years, in increments as deemed to be in the best interest of the State. Whether the optional extensions are exercised is at the sole discretion of the State. A Contractor shall retain the right to decline a Contract extension offered under this section. Any Contract extension will be under the same terms and conditions, subject to any additional applicable statutory and policy requirements. Any extensions provided under this section shall apply in addition to any rights set forth in Appendix B, Contract Term – Extension.

For the purposes of the City of New York only, the Contract Term shall extend 6 months beyond its termination date upon the then-existing terms and conditions. During the 6-month period, the definition of Authorized User shall be deemed to refer only to the City of New York. This extension is in addition to any other extensions available under the resulting Contract.

##### 7.4.2 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 ninety (90) 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 one hundred eighty (180) Calendar Days in lieu of ninety (90) Calendar Days. However, this extension automatically terminates should a replacement Contract be issued in the interim.

##### 7.4.3 EXPIRATION OF CONTRACT; SURVIVAL OF AUTHORIZED USER AGREEMENTS AND PURCHASE ORDERS

Authorized User Agreements and Purchase Orders issued prior to the end of the resulting Contract, including any extensions, shall not extend 12 months past the resulting Contract end date.

#### 7.5 PRICING

The prices shown on the OGS Centralized Contract in the Contractor's pricelist shall reflect the complete cost of the Services. All prices shall be for the Service only. All prices shall not include Equipment or Hardware, or both. All prices shall not be payable by using an amortization schedule. Prices for Services shall not include ancillary costs like installation or Equipment that have been incorporated into the Price.

Pricing shown on the Contractor's pricelist may only include, as pass through on Authorized User invoices, those taxes, surcharges, fees or other charges approved by OGS in accordance with section 3.2.5.5 above.

Contractor's pricelist shall be submitted to OGS as an Excel spreadsheet. Contractor's pricelist shall only contain plain text. Contractor's pricelist shall not include any pictures or photographs. Contractor's pricelist shall not include any marketing language or marketing materials. Contractor's pricelist shall not include any additional terms and conditions.

### 7.5.1 NOT TO EXCEED

The prices shown on the OGS Centralized Contract must be not to exceed prices. Authorized Users are encouraged to negotiate with Contractors to obtain lower pricing. Contractor shall not charge Authorized Users prices that exceed the amount listed on the Contractor's pricelist.

### 7.5.2 PREVAILING MARKET RATES

OGS or the Authorized Users may, either annually or during another time frame that OGS or the Authorized User sees fit, review the prevailing market rates and, when applicable, require Contractors to lower their prices according to the prevailing market rates.

### 7.5.3 BEST OFFER

During the Contract Term, if OGS becomes aware that the Contractor is selling substantially the same or a smaller quantity of a Service outside of the resulting Contract upon the same or similar terms and conditions as that of the resulting Contract at a lower price to a Government Entity, then OGS reserves the right to consult with the Contractor. After such consultation, OGS may request that Contractor reduce the then current Contract price to the lower price. OGS reserves the right to request information to verify Pricing for the purposes of this clause.

### 7.5.4 PRICE STRUCTURE

If, during the Contract Term, the Contractor is unable or unwilling to meet contractual requirements in whole or in part based on the price structure of the resulting 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 resulting Contract. The State may, but is not required to, consider an equitable adjustment in the Contract terms or pricing, or both, in the circumstances outlined in Appendix B, Savings/Force Majeure.

Should the Commissioner in his or her sole discretion determine during the Contract Term that (i) the Contract price structure is unworkable, detrimental, or injurious to the State, or (ii) the Contract price structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, and no adjustment in the resulting Contract terms, or pricing, or both, is mutually agreeable, the State may terminate the resulting Contract upon ten (10) Business Days Written notice mailed to the Contractor.

### 7.5.5 DISCOUNTS

All Discounts shown on Contractor's pricelist shall not be decreased by the Contractor during the resulting OGS Centralized Contract, Purchase Orders and/or Authorized User Agreements, or Purchase Orders.

Discounts shown on Contractor's pricelist may be increased by the Contractor at any time during the resulting OGS Centralized Contract, and/or Authorized User Agreements, or Purchase Orders.

## 7.6 OGS CENTRALIZED CONTRACT MODIFICATION PROCEDURES (CONTRACT UPDATES)

An Authorized User, or the Contractor may suggest modifications to the Centralized Contract. These modifications must be made pursuant to Appendix B, Modification of Contract Terms, and Appendix C – Contract Modification Procedure.

## 7.7 PURCHASE ORDERS

Purchase Orders shall be made according to the terms set forth in Appendix B, Purchase Orders.

### 7.7.1 ORDERING

Purchase Orders shall be made according to the terms set forth in Appendix B, Purchase Orders. Authorized Users may submit Purchase Orders over the phone, and, if available, may submit Purchase Orders electronically via web-based ordering, e-mail, or facsimile at any time. Purchase Orders submitted shall be deemed received by Contractor on the date submitted.

All Purchase Orders shall reference Contract number, requisition, or Purchase Order number (if applicable), or any combination of the three. Upon Contractor's receipt of a Purchase Order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

Authorized Users are directed to consult Attachment 7 – How to Use as well as their own procurement guidelines pertaining to placing orders.

#### 7.7.1.1 PURCHASE CARD ORDERS

If the Contractor accepts orders using the State's Purchasing Card (see Appendix B, Purchasing Card), also referred to as the Procurement Card, the Contractor shall not charge or bill the Authorized User for any additional charges related to the use of the Purchasing Card, including but not limited to processing charges, surcharges or other fees.

#### 7.7.1.2 MINIMUM ORDER

There is no minimum order for the resulting Contract.

#### 7.7.1.3 AUTHORIZED AGENCY PERSONNEL

The Contractor must only accept Purchase Orders for Service Changes to the Services from authorized personnel within each specific Authorized Users organization.

The Authorized User should advise Contractor of authorized personnel during the initial Service initiation process and Contractor shall provide "Authorization Forms" for Authorized Users personnel signatures. These "Authorization Forms" must be updated on an annual basis by the Contractor.

#### 7.7.1.4 CONTRACTOR ORDERING PERSONNEL

The Contractor must provide "order-taking" personnel who are fully trained in the Contractors ordering mechanism and the services offered through this Contract to receive orders for service additions and changes from Authorized Users.

### 7.7.2 SERVICE INITIATION AND CHANGE ORDER TIME FRAMES

Delivery shall be expressed in number of Business Days required to make the service available or reflect a modification to an existing Service after receipt of an Authorized User Agreement, Purchase Order, or Change Order.

Unless otherwise specified in writing by the Authorized User, the following provisions for Service availability and initiation time shall apply:

1. Contractor shall acknowledge receiving an Authorized User Agreement or Purchase Order within two (2) Business Days. Contractor's acknowledgement shall be in writing, and will include a service order number (or equivalent), the anticipated Service Activation Date, and the monthly invoice date for the Services requested;
2. Contractor shall provide the Authorized User with Written acknowledgement of the Service Activation Date request at least ten (10) Business Days prior to its initiation;
3. If Contractor is unable to activate Service by the Service Activation Date, then the Contractor shall provide Authorized User Written notice as soon as a delay is anticipated, but no less than three (3) Business Days prior to the latest date of the original obligation. This Written notice must include the reasons for the delay and the new Service Activation Date;
4. All correspondence regarding Service availability, modifications, and initiation time shall be directed to the ordering Authorized User's contact person.

### 7.7.3 FAILURE TO COMMENCE SERVICE ON DUE DATE

Calculation of uptime shall begin at the time the service has been obligated to be initiated. Failure to meet such timeframe or mutually agree on an alternative date may result in the Authorized User requesting a credit. Authorized User may provide in their Authorized User Agreement a plan for acceptance of an alternate date for commencement of Services, including consequences for that plan not being met by either party.

### 7.7.4 DISCONNECT ORDERS

Disconnect orders placed by the Authorized Users must be implemented upon receipt by the Contractor. The Contractor must confirm receipt of the disconnect order in writing via email to the Authorized User's contact placing the disconnect order. Upon receipt of the disconnect order, the Contractor must disconnect the Service. The Authorized Users shall not be responsible for any charges incurred more than thirty (30) days after the disconnect order request is confirmed by the Contractor.

## 7.8 INVOICING

Invoicing shall be made according to the terms set forth in Appendix B, Contract Invoicing.

The Contractor must provide the Authorized User with one invoice for each Purchase Order at the time of delivery. The invoice must include detailed line item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

1. Contractor Name;
2. Name of Authorized User indicated on the Purchase Order;
3. Product/Service Descriptions;
4. Quantity;
5. Invoice Amount;

If Contractor fails to include the above information, then an Authorized User must reject the invoice, and notify the Contractor within one (1) Business Day to resubmit a proper invoice with the necessary information. Contractor must not receive payment until a proper invoice is submitted and processed by an Authorized User.

At a minimum, the following fields should be included on each invoice:

1. Contractor Billing Address;
2. Contractor Federal ID Number;
3. NYS Vendor ID Number;
4. Account Number;
5. NYS Contract Number;
6. NYS Agency Unit ID (if applicable);
7. Authorized User's Purchase Order number;
8. Order Date;
9. Invoice Date;
10. Invoice Number;
11. Unit Price;
12. Unit of Measure; and
13. Dates of Service.

If Contractor fails to include the above information, then an Authorized User may work with Contractor to obtain the above information, or return the invoice to the Contractor for correction. When an Authorized User returns an invoice for a Contractor to correct these items, the Authorized User should notify the Contractor within one (1) Business Day to resubmit a proper invoice with the necessary information. must reject the invoice, and notify the Contractor within one (1) Business Day to resubmit a proper invoice with the necessary information. Contractor may not receive payment until an invoice with the above requested information is submitted and processed by an Authorized User.

Contractors should note that the Authorized Users that use the Statewide Financial System (SFS) will require a Unique Invoice Number. The Statewide Financial System (SFS) requires Authorized Users to enter a Unique Invoice Number on

each Contractor's payment voucher. The SFS has automated validations that prohibit Authorized Users from processing and paying duplicate invoices. Contractor may not receive payment until an invoice with a Unique Invoice Number is submitted and processed by an Authorized User.

#### 7.8.1 INAPPROPRIATE INFORMATION IN INVOICES

Contractor will not include inappropriate or unrelated flyers, brochures, notices or other marketing material in any invoice for the purchased Telecommunication Connectivity Services. Inappropriate inserts include notices for other Telecommunication Connectivity Services not available on the resulting Contract, invoice change notices for Services for which the Authorized User has not purchased, or for areas outside of New York. Contractor may only include inserts in their invoice that are specifically designed to inform the Authorized User about the purchased Telecommunication Connectivity Services. For example, inserts for new enhancements to those Services, new Services approved for the resulting Contract, or invoicing information specific to the purchased Services may be included with the Contractor's invoice.

#### 7.8.2 REQUIRED INVOICING CYCLE

The Contractor must adhere to a consistent monthly invoicing cycle.

#### 7.8.3 INVOICING FORMAT

Contractor will allow Authorized User to select the format of their monthly invoice. Formats may include:

1. Physical Copy – Via US Postal Service;
2. Electronic Copy – Internet Access by Agency; or
3. Electronic Data Interchange – EDI.

#### 7.8.4 ADDITIONAL MONTHLY INVOICES

The Contractor must provide an additional copy of the monthly invoice as requested by the Authorized User within ten (10) Days upon request. This additional copy may be for a single month or for multiple invoicing months. This additional invoice copy must be provided at no cost to the requesting Authorized User.

#### 7.8.5 INDIVIDUAL AGENCY INVOICING

The Contractor must have the capability of invoicing each Authorized User for those specific Telecommunication Connectivity Services purchased by that particular Authorized User.

#### 7.8.6 SINGLE AGENCY/MULTIPLE LOCATION INVOICING

Authorized User may have offices at multiple locations which 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. Visit the following link for further guidance for Vendors on invoicing: <https://bsc.ogs.ny.gov/content/vendor-information>.

#### 7.8.7 SINGLE AGENCY/MULTIPLE LOCATION OPTIONAL INVOICING

Contractor must be capable of providing a single "Master Invoice" to any Authorized User which has purchased Services in multiple locations. This "Master Invoice" must include all required monthly information and usage broken down by each location of the Authorized User.

#### 7.8.8 UNIQUE ACCOUNT IDENTIFIER

The Contractor should create a "Unique Account Identifier" in its invoicing System that recognizes NYS and its eligible Authorized Users. This "Unique Account Identifier" would allow the Contractor to associate all Authorized Users and thus eliminate and prohibit the application of inappropriate non-applicable fees or actions, or both, such as but not limited to:

1. State and Federal Taxes;
2. Late Payment Fees;



3. Third Party Marketing Sales;
4. Referral to Collection Agencies;
5. Non-Applicable Charges; and
6. Automated Termination of Service.

#### 7.8.9 BASIC SERVICE CHARGE INVOICING

The Contractor must provide an invoice for the basic service charge for any purchased Telecommunication Connectivity Services on a monthly basis. This basic service charge is for those items that are fixed from one invoicing cycle to another.

#### 7.8.10 BASIC SERVICE CHARGE BREAKDOWN

If OGS or an Authorized User request, then the Contractor must provide a simple report listing all items and associated costs included in the basic service charge. This report must include the quantity of each item, a description of each item and the cost for each item in a simple report format understandable to the “lay person”. The use of “codes” in place of Service description will not be acceptable in this breakdown report although the Contractor may list associated invoicing codes for its own use.

#### 7.8.11 INVOICING AND ROUNDING OF CHARGES

Contractors must propose rates within 4 decimal places (\$00.0000). Service increments must first be totaled per Authorized User invoice per type of service provided then multiplied by the rate, then rounding to the nearest penny (two (2) decimal places (\$00.00)).

#### 7.8.12 DISCOUNT PERCENTAGE

All Discount percentage values shall not exceed two decimal places (e.g., 20.25222% shall be rounded to nearest one hundredth 20.25%). A Discount percentage value cannot be expressed as a range (ex 10%-20%, or “varies”).

#### 7.8.13 INVOICING OF PAST CHARGES

The Contractor may not invoice Authorized Users for any monthly Service or usage that was utilized sixty (60) Days prior to the beginning of the then current invoicing cycle. This includes all charges, even those allowed under any resulting Contract, but not previously charged.

Disputed charges as described below are exempt from this time frame as long as the charges previously appeared on an invoice within the time frame as set forth above.

#### 7.8.14 CHANGES IN MONTHLY COSTS

The Contractor is not allowed to invoice the Authorized User for any new or additional charges (recurring or non-recurring) to those costs proposed on the pricelist.

#### 7.8.15 INCORRECT INVOICES

Incorrect invoices must be corrected by the Contractor. Such correction should be completed by the Contractor automatically without waiting for an Authorized User to advise of the error. In the event that an Authorized User discovers an incorrect invoice, it must be corrected by the Contractor. The Contractor must advise the Authorized User of the error and supply the Authorized User with a corrected invoice within sixty (60) Days of the error being identified by either party. When applicable, an invoice shall be corrected prior to the Authorized User releasing payment for the same.

In the event that an invoice is not corrected prior to the Authorized User releasing payment for the same, any overpayment for Services from the Authorized User to the Contractor shall be refunded from the Contractor to the Authorized User according to Section 7.9.3 below.

If OGS or an Authorized User request, then Contractor must provide evidence of a permanent solution of the error condition. Non-recurrence of the error condition will be considered an acceptable solution. A correct invoice is still required even if the error is found to be inherent in the Contractors invoicing System.

Future payments will not be made until corrected invoices are provided to the Authorized User.

#### 7.8.16 ACCESS TO PAST INVOICES

At any time during the Contract Term an Authorized User, or OGS, or both may request copies of an Authorized User's invoices from Contractor. OGS, or the Authorized User, or both shall be able to obtain copies of all invoices from the Activation Date of the Service to the date of request. By using the resulting Contract, an Authorized User consents to OGS requesting and receiving copies of an Authorized User's invoices from Contractor.

Pursuant to Section 57.05 of the Arts and Cultural Affairs Law and 8 NYCRR Part 188 State Agencies may not destroy or otherwise dispose of any records unless such disposition is authorized by the State Archives. Contractor must retain all records regarding Centralized Contracts for 7 years after the Contract expires or final payment, whichever occurs later.

### 7.9 PAYMENTS

Payments shall be made according to the terms set forth in Appendix B, Contract Invoicing.

#### 7.9.1 APPLICATION OF PAYMENTS

It is required that payments received by the Contractor be appropriately posted to the specific Authorized User's account for which the payment was received. The Contractor must not create a single "New York State" account to which it will post received payments. The Contractor is required to provide, at the request of the Authorized User, Written reports to demonstrate a payment history of the Services provided the Authorized User. The Contractor is required to provide, at the request of OGS, a complete Written report of its payment history of all Authorized Users for service(s) provided in an appropriate format to validate Contract invoicing.

#### 7.9.2 FAILURE OF AN AUTHORIZED USER TO MAKE PAYMENTS

Contractor shall not suspend or cancel any Services if an Authorized User fails to pay an invoice except as provided in Appendix B, Default - Authorized User.

#### 7.9.3 DISPUTED CHARGES

A disputed charge shall mean an amount billed that is questioned by an Authorized User. A valid charge shall mean a disputed charge that was provided for under the resulting Contract or Authorized User Agreement, or both. An invalid charge shall mean a disputed charge that was not provided for under the resulting Contract or Authorized User Agreement, or both.

If there is an invoicing dispute between the Authorized User and the Contractor, then either OGS or the Authorized User, or both, retain the right to require an audit of the usage and invoicing as it has been provided during the Contract Term. At any time during the Contract Term an Authorized User, or OGS, or both may request copies of an Authorized User's invoices from Contractor. Invoices shall be reviewed to compare the information on the invoice to the terms and conditions of the resulting Authorized User Agreement, or Contract, or both. OGS, or the Authorized User, or both shall be able to review all invoices from the Activation Date of the Service to the date of request.

Contractor must not provide an Authorized User with past due notices, or termination notices, or both if there is a disputed charge on the Authorized user's invoice. Contractor must remove a disputed charge from an Authorized User's invoice until the disputed charge is resolved.

If it is determined that a disputed charge is a valid charge, then Contractor will list the valid charge as a separate line item on the Authorized User's next monthly invoice.

If it is determined that a disputed charge is an invalid charge and the Contractor has not already received payment for that invalid charge, then Contractor will not list the invalid charge on the Authorized User's next monthly invoice.

If a Contractor has already received payment for an invalid charge, then the Authorized User shall be entitled to any wrongly-billed amounts from the Activation Date of Service to the date of correction of invalid charges. Authorized User shall direct Contractor to either provide service credits or monetary refund to compensate for any invalid charges.

#### 7.9.4 FEDERAL FUNDING

For an Authorized User using Federal funds, Contractor shall cooperate in adding to the Authorized User's Agreement, or other applicable document, any Federal funding Contract clauses necessary for the Authorized User's Project. An Authorized User shall identify to Contractor, as a condition of using the resulting Contract and during the RFQ process, whether Federal funds will be utilized for the Project.

#### 7.9.5 PERFORMANCE AND BID BONDS

There are no bonds for this Solicitation or the resulting Contract. However, an Authorized User may require in an RFQ a performance bond, payment bond, Bid bond, negotiable irrevocable letter of credit, or other form of security for the faithful performance for the resulting Authorized User Agreement.

#### 7.10 SERVICE DELIVERY

Delivery of all Contract Services shall be made according to Appendix B, Product Delivery and Appendix B, Shipping/Receipt of Product.

#### 7.11 CONTRACTOR RESPONSIBILITY

The Contractor shall at all times during the Contract Term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or their designee, 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 or their designee, in his or her sole discretion, reserves the right to suspend any or all activities under the resulting 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 must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or their designee issues a Written notice authorizing a resumption of performance under the resulting Contract.

Upon Written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the resulting Contract may be terminated by the Commissioner of OGS or their designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or their designee to be non-responsible. In such event, the Commissioner of OGS or their designee 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 resulting 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.

##### 7.11.1 CONTRACT ADMINISTRATION

Contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to OGS or Authorized User needs and who can effectively service the resulting Contract. Contractor will provide the following Designated Personnel for the duration of the Contract Term at no charge to the State. Information regarding the Contractor's personnel will be set forth in Attachment 1 – Administrative Information, Contractor Designated Personnel tab.

During the Contract Term and until the end of any related Authorized User Agreements or Purchase Orders, Contractor must notify OGS within five (5) Business Days if its Designated Personnel change and provide interim contact personnel until the position is filled. Contractor may submit a Designated Personnel change electronically via email per the instructions contained in Appendix C – Contract Modification Procedure. The Designated Personnel

must have the authority to act on behalf of the Contractor. OGS or Authorized User will not be held liable for changes in Contractor's Contact Information that they were not made aware.

#### 7.11.1.1 ACCOUNT MANAGER

The Account Manager shall be responsible for the overall relationship with the State during the Contract Term and shall act as the central point of contact.

#### 7.11.1.2 CONTRACT ADMINISTRATOR

The Contract Administrator shall be responsible for the updating and management of the resulting Contract on a timely basis.

#### 7.11.1.3 SALES MANAGER

The Sales Manager shall be responsible for the overall relationship with the Authorized Users for matters relating to RFQs or Purchase Orders, or both.

#### 7.11.1.4 BILLING CONTACT

The Billing Contact shall be responsible for serving as the single point of contact between the Contractor and the Authorized User for matters related to invoicing, billing and payment.

#### 7.11.1.5 DISCONNECT CONTACT

The Disconnect Contact shall be responsible for serving as the single point of contact between the Contractor and the Authorized User when the Authorized User wishes to disconnect a Service or feature.

#### 7.11.1.6 EMERGENCY CONTACT

The Emergency Contact shall be responsible for being available 24 hours a day, 365 days per year for emergencies occurring after business hours or on weekend/holidays.

#### 7.11.1.7 TOLL FREE NUMBER

Contractor shall provide a toll-free telephone number for use by Authorized Users. Contractor should staff this toll-free number at a minimum from 9:00 AM to 5:00 PM Monday through Friday Eastern Time, excluding New York State or federal holidays. This number shall be provided at no cost to the State.

#### 7.11.1.8 SINGLE POINT OF CONTACT

The Contractor shall serve as the Single Point of Contact (SPOC) for the Authorized User for all issues regarding Services, even if Contractor uses sales agents, Subcontractors, affiliates, or partners to provide such Services.

### 7.11.2 ESCALATION PROCEDURES DURING SERVICE REPAIR

Contractor's escalation procedures will be posted on the OGS website. When responding to an Authorized User's RFQ Contractors shall disclose any additional escalation procedures as part of their Quote.

### 7.11.3 REQUIRED CERTIFICATIONS

Contractor is responsible for maintaining and updating filings with the Federal Communications Commission (FCC), the New York State Public Service Commission (PSC), the Federal Trade Commission (FTC), and any other regulatory body holding jurisdiction over the Services Contractor is offering under the resulting Contract. Contractor must bear all costs associated with any required filings.

#### 7.11.4 TARIFF DOCUMENTS

OGS or Authorized Users, or both, retain the right to require Contractor to submit Tariff documents upon request. The terms and conditions of the resulting Contract and any Authorized User Agreement shall prevail and control the Services provided via an Authorized User Agreement.

##### 7.11.4.1 DE-TARIFFING

If detariffing occurs during the term of the resulting Contract, then the terms and conditions of the resulting Contract and any Authorized User Agreement shall prevail and control the previously tariffed Services provided to Authorized Users.

#### 7.11.5 PERFORMANCE OF SERVICES

The Contractor is responsible for fully meeting all obligations set forth in the resulting Contract and for providing Service according to the terms and conditions of the resulting Contract and any Authorized User Agreement.

Contractor may utilize a company who has an ownership relationship with Contractor such as a parent company, subsidiary, predecessor entity, or other similarly related entity to provide Services according to the terms and conditions of the resulting Contract and any Authorized User Agreement.

The Contractor shall not be relieved of any responsibility under the Contract by any related company.

Contractor may permit related companies to communicate with Authorized Users. Contractor must directly receive all orders and payments from Authorized Users. Contractor must directly send all invoices to Authorized Users. Contractors must not authorize related companies to accept orders, send invoices, or receive payment from Authorized Users, or do any combination of the three.

The Contractor shall be solely responsible to the State and Authorized User for the acts or defaults of its related company and of such related company's officers, agents, and employees, each of whom shall for this purpose, be deemed to be the agent or employee of the Contractor.

Any Services provided or furnished by a related company shall be deemed for purposes of the Contract to be provided or furnished by the Contractor.

The Contractor shall inform each related company fully and completely of all provisions and requirements of the Contract.

Contractor agrees that every such related company shall expressly stipulate that all labor performed pursuant thereto shall strictly comply with the requirements of the Contract and that no related company shall impair the rights of the State or Authorized User or create any contractual relationship between the related company and the State or Authorized User.

#### 7.11.6 CONTRACTOR STAFF

All employees of the Contractor who shall perform under an agreement with an Authorized User, including Maintenance staff who service the Contractor's Network services shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All Business Entities that perform Services under the resulting Contract shall, in performing the Services, comply with all applicable Federal, State, and local laws concerning employment in the United States, like Section 6-109 of the New York City Administrative Code and other local laws that establish a living wage, or Articles 8 and 9 of the New York State Labor Law that establish a prevailing wage rate.

#### 7.11.7 TIME TO RETURN PHONE CALLS OR RESPOND TO EMAILS

Contractor must return phone calls or respond to emails within a maximum of four (4) business hours (8:00 AM – 5:00 PM between Monday and Friday) after a phone call is placed or an email is received.

#### 7.11.8 INTERFACING WITH THIRD PARTY CONTRACTORS

The Contractor must work in conjunction with any Customer Premises Equipment (CPE), voice, data or video Contractor, utilized by the Authorized User, to resolve technical issues that may arise during Authorized User's use of the Contractor's Services thus eliminating the need for the Authorized User to be a mediator in problem resolution. The Contractor must speak directly with the third-party contractor, when requested by the Authorized User, ensuring the resolution of these technical issues by the time frames detailed in the Maintenance requirements of the resulting Contract. The Contractor is required to attend any meeting arranged by the Authorized User to facilitate the resolution of a technical problem associated with the performance of the purchased Telecommunication Connectivity Services. See Appendix B, Cooperation with Third Parties.

#### 7.11.9 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. See State Finance Law §§ 163(2) and 163-a for additional information on the statutory prohibitions. Non-State agency Authorized Users may have additional statutory prohibitions.

#### 7.11.10 DRUG AND ALCOHOL USE PROHIBITED

For reasons of safety and public policy, the use of alcoholic beverages or illegal drugs by the Contractor's personnel shall not be permitted in performance of the resulting Contract.

#### 7.11.11 TRAFFIC INFRACTIONS

Neither the State nor Authorized Users will be liable for any expense incurred by the Contractor's personnel for any parking fees or as a consequence of any traffic infraction or parking violation attributable to employees of the Contractor in performance of the resulting Contract.

#### 7.11.12 SEXUAL HARASSMENT

Contractor shall comply with current New York State Governor Andrew M. Cuomo's 18<sup>th</sup> Proposal of the 2018 State of the State entitled "Combat Sexual Harassment in the Workplace". That compliance currently includes a mandate that private companies that do business with the State report sexual assault and harassment statistics to prevent secrecy.

#### 7.11.13 ADDITIONAL CONTRACTOR TERMS AND CONDITIONS WITHIN AN AUTHORIZED USER AGREEMENT

The incorporation of Contractor terms and conditions in an Authorized User Agreement shall be governed by Appendix B, Modification of Contract Terms.

### 7.12 NEW YORK STATE 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 requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State Agencies to procure Products/Services 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 on-line 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 is also implementing the PeopleSoft Inventory module in the near future to track inventory items within the item master table. Further information regarding business processes, interfaces, and file layouts may be found at: [www.sfs.ny.gov](http://www.sfs.ny.gov) and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

### 7.13 ELECTRONIC PROCUREMENT SYSTEMS (EPROCUREMENT)

Contractor shall, in the event the State implements a Web-based System to support catalog purchasing and upon at least one hundred twenty (120) Days notice, participate as directed by Procurement Services to successfully activate and maintain a Contract and technically compliant catalog.

### 7.14 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, resellers, Subcontractors or assigns, 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 resulting Contract:

Any web-based information and applications development, or programming delivered pursuant to the resulting Contract or Authorized User Agreement, 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 must 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, must be satisfactory to the State before web-based information and applications will be considered a qualified deliverable under the resulting Contract or Authorized User Agreement.

### 7.15 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. Contractor is required to identify and offer any Products/Services it manufactures or adapts that may be used or adapted for use by persons with visual, hearing, or any other physical disabilities. Although it is not mandatory for Contractor to have these Products/Services in order to receive an award, it is necessary to identify any such Products/Services offered that fall into the above category.

### 7.16 REPORTS

OGS retains the right to hold the processing of Contract Modification Requests pending the receipt of outstanding completed and accurate Contractor's sales reports. Such sales reports are needed to understand the scope and implications of such modifications. Failure to provide proper sales reports may result in a Contractor as being found non-responsive in subsequent transactions. Reports shall be generated throughout the Contract Term, including Contract Extensions, Authorized User Agreements, or Purchase Orders whatever extends the Contract Term the longest amount of time.

#### 7.16.1 REPORT OF CONTRACT USAGE / SALES REPORTS REQUIREMENTS

Contractor shall submit Attachment 6 – Report of Contract Usage detailing total sales to Authorized Users from Contractor made under the resulting Contract, to OGS no later than thirty (30) Days after the close of each calendar quarter (January - March, April - June, July - September and October - December). If the Contract Term begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be included in the quarterly report.

Contractors shall specify if any authorized resellers, dealers or distributors are NYS Certified Minority- and/or Women-Owned Business Enterprises (MWBES), Small Business Enterprises (SBEs), or Service-Disabled Veteran-Owned Businesses (SDVOBs).

The report is to be submitted electronically via e-mail in Microsoft Excel to OGS Procurement Services, to the attention of the individual listed on the front page of the Contract Award Notification and shall reference the Contract Group Number, Award Number, Contract Number, Sales Period, and Contractor's name.

The report in Attachment 6 – Report of Contract Usage contains the minimum information required. Additional related sales information, such as detailed Authorized User purchases may be required by OGS and must be supplied upon request.

By using the resulting Contract, an Authorized User consents to OGS receiving the information listed on Attachment 6 – Report of Contract Usage.

#### 7.16.2 AUTHORIZED USER REQUIRED REPORTS

An Authorized User may require Contractor to provide Management or other Reports. The Authorized User should inform the Contractor of what information would be included in the Report. These Reports must be available to the Authorized User upon request.

#### 7.17 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/>

#### 7.18 ENVIRONMENTAL / RECYCLING PROVISIONS

Contractor shall comply with the following requirements regarding environmental concerns or recycling.

##### 7.18.1 EPA ENERGY STAR PROGRAM

The Federal EPA, in cooperation with the Manufacturers, continues a program to foster the manufacture of energy efficient equipment. New York State fully supports this effort. The State may discontinue use of and/or delete from the resulting Contract selected Services as mandated by any Federal, State or local energy legislation that is enacted during the term of the resulting Contract. The Contractor shall have no recourse with the State for such discontinuance/deletion.

##### 7.18.2 USE OF RECYCLED OR REMANUFACTURED MATERIALS

New York State supports and encourages Contractors to use recycled, remanufactured or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or



intended end use of the Product or packaging unless such use is precluded due to health or safety requirements or Product specifications contained herein. Refurbished or remanufactured components or Products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this Solicitation. Warranties on refurbished or remanufactured components or Products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, Remanufactured, Recycled, Recyclable or Recovered Materials.

### 7.18.3 BULK DELIVERY AND ALTERNATE PACKAGING

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A Contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the Product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

### 7.18.4 SURPLUS / TAKE-BACK / RECYCLING

- I. A State Agency is reminded of its obligation to comply with the NY State Finance Law § 167, Transfer and Disposal of Personal Property, and § 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.
- III. The NYS Department of Environmental Conservation ("DEC") Electronic Equipment Recycling and Reuse Act ("Act") (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>
- IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology ("NIST") Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

### 7.18.5 ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER 4

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring Products. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <https://ogs.ny.gov/greenny/>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

#### 7.18.6 CONSUMER PRODUCTS CONTAINING MERCURY

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any Products containing elemental mercury for any purpose under the resulting Contract.

#### 7.18.7 DIESEL EMISSION REDUCTION ACT

Pursuant to N.Y. Environmental Conservation Law § 19-0323 (the “Law”), it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology (“BART”) and ultra-low sulfur diesel fuel (“ULSD”). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by Contractors “on behalf of” State Agencies and public authorities and require certain reports from Contractors. All heavy duty diesel vehicles must have BART by the deadline provided in the Law. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Contractor hereby certifies and warrants that all heavy duty vehicles, as defined in the Law, to be used under this Contract, will comply with the specifications and provisions of the Law, and 6 NYCRR Parts 248 and 249.

#### 7.18.8 EPEAT

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be utilizing EPEAT, or the Electronic Product Environmental Assessment Tool. EPEAT is an environmental rating system and product registry for identifying and purchasing sustainable IT Products. EPEAT-registered Products must meet environmental criteria and the Procurement Services recommends mobile phones be rated silver or better. Products classified as Silver meet the criteria that addresses the life cycle of the Products, including material extraction, hazardous substance reduction, End-of-Life management, packaging, and corporate sustainability. For more information on EPEAT, please visit: <https://www.epeat.net/>.

#### 7.19 OVERLAPPING CONTRACT SERVICES

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

#### 7.20 PREFERRED SOURCE PRODUCTS / SERVICES

Section 162 of the State Finance Law requires that Authorized Users afford first priority to the Products of Preferred Source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such Products meet the form, function and utility of the Authorized User. Some Products in the resulting Contract may be available from one or more Preferred Sources. An Authorized User must determine if a particular Product is approved for a Preferred Source and follow the requirements of State Finance Law § 162(3) or (4)(b), respectively, before engaging the Contractor.

#### 7.21 PARTICIPATION IN CENTRALIZED CONTRACTS

Contractors shall comply with the following requirements regarding their participation in Centralized Contracts.

##### 7.21.1 COMPLIANCE WITH FEDERAL, STATE AND LOCAL REGULATIONS

If required by OGS or an Authorized User, Contractor will provide verification of compliance with specific Federal, State and local regulations, laws and IT standards that the Authorized User is required to comply with. See Attachment 4 – Primary Security and Privacy Mandates.

More specifically, Authorized Users may require Contractor compliance with applicable ITS policies found at: <http://www.its.ny.gov/tables/technologypolicyindex.htm>, or Section 6-109 of the New York City Administrative Code and other local laws that establish a living wage, or New York State Labor Law Articles 8 and 9 that establish a prevailing wage rate.

#### 7.21.2 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.

Upon request, all eligible Non-State agencies must furnish Contractors with 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.

#### 7.21.3 EXTENSION OF USE

Any resulting Contract from this Solicitation 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 resulting 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.

#### 7.21.4 CONTRACT MIGRATION

The following requirements shall supplement the requirements of Appendix B, Participation in Centralized Contracts §25(e):

All executed Purchase Orders or ordering documents currently held by State Agencies under the Comprehensive Telecommunication Services Contract (Group 77107 Award 20268) with a current Contractor holding a Telecommunication Connectivity Services Contract (Group 77107 Award 23100) for the same Service shall be migrated to the Contractor's Telecommunication Connectivity Services Contract for the balance of that Purchase Order unless the current Purchase Order pricing is lower than the Contractor's price for the Service as listed on its pricelist for the Telecommunication Connectivity Services Contract. This migration shall be completed within 90 calendar days from date that the Contractor's Telecommunication Connectivity Services Contract is posted on the OGS website.

All other executed Purchase Orders or ordering documents currently held by Non-State Agency Authorized Users under the Comprehensive Telecommunication Services Contract (Group 77107 Award 20268) with a current Contractor holding a Telecommunication Connectivity Services Contract (Group 77107 Award 23100) for the same Service shall be permitted to migrate to the Contractor's Telecommunication Connectivity Services Contract for the balance of that Purchase Order unless the current Purchase Order pricing is lower than the Contractor's price for the Service as listed on its pricelist for the Telecommunication Connectivity Services Contract. This migration shall be completed within 60 calendar days of the date the Authorized User makes their migration request.

Such migrations shall not operate to diminish, alter or eliminate any right that the Authorized User otherwise had under the terms and conditions of the Comprehensive Telecommunication Services Contract. In the event of a conflict between the Comprehensive Telecommunication Services Contract and the Telecommunication Connectivity Services Contract, the terms and conditions of the Telecommunication Connectivity Services Contract shall prevail. In no event shall Services or Products outside the scope of the Telecommunication Connectivity Services Contract be migrated under this section.

### 7.22 NETWORK SECURITY

In addition to the requirements in Section 6.13 – Network Security Administration above Contractor shall comply with the following requirements regarding Network Security.

### 7.22.1 ACCESS TO LOGS AND REPORTS

Upon request, the Contractor shall provide access to logs and reports to OGS or an Authorized User in a format as specified by the Authorized User for Services covered under the resulting Contract. Contractor shall provide all requested logs and reports to the Authorized User at no cost. By using the resulting Contract, an Authorized User consents to OGS receiving the information listed on logs and reports.

### 7.22.2 REQUESTS FOR DATA BY THIRD PARTIES

Unless prohibited by law, Contractor shall notify Authorized User in Writing within 24 hours of any request for their respective Data (including requestor, nature of Data requested and time frame of response) by a person or entity other than an Authorized User, and the Contractor shall secure Written acknowledgement of such notification from the Authorized User before responding to the request for Data.

Unless compelled by law, the Contractor shall not release Data without prior Written approval by the Authorized User, as applicable.

### 7.22.3 FRAUD CONTROL

Contractor must monitor those Services purchased by the Authorized User for any unusual activity like large increases over normal usage, or abnormal calls to international countries. The Contractor must notify the affected Authorized User immediately upon identifying this usage increase and make recommendations to end such possible unauthorized usage or fraud. Should the Contractor fail to identify and resolve the unauthorized usage or fraud activity with the Authorized User, the Contractor will assume all responsibility for the charges in question. If requested by OGS or Authorized Users, or both, Contractors must provide an established plan for the prevention of unauthorized use of any Telecommunication Connectivity Services purchased pursuant to this Contract. In the plan Contractors must describe the following:

1. the methods they will employ to prevent any unauthorized charges from appearing on the monthly invoice to Authorized Users;
2. the group or department established to assist in the prevention of unauthorized usage and fraud; and
3. how this group or department will interact with Authorized Users to prevent fraud.

### 7.22.4 NYS ITS POLICIES

Contractor shall comply with the following NYS ITS Policies, and their successor policies, as requested by Authorized User.

NYS-S15-003	802.11 Wireless Network Security
NYS-S14-009	Mobile Device Security
NYS-S14-012	Bring Your Own Device (BYOD)
NYS-S13-003	Sanitization Secure Disposal Standard
NYS-S14-007	Encryption Standard
NYS-S14-011	Enterprise Mobile Management Technical Standard

The above policies can be found at <https://its.ny.gov/tables/technologypolicyindex>.

### 7.22.5 CONFIDENTIALITY AND PRIVACY POLICIES AND LAWS

In addition to compliance with all applicable guidelines, laws, policies, rules and regulations on the Federal, State and Local levels, the Contractor shall comply with all State and Authorized User policies regarding compliance with various confidentiality and privacy laws, rules and regulations, including but not limited to the Family Educational Rights and Privacy Act (FERPA), the Health Insurance and Portability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH) throughout the life of the resulting Contract as well as any related Authorized User Agreement or Purchase Order, whichever is longer. As part of such compliance, Contractor shall execute Written confidentiality/non-disclosure agreements as requested by the State or an Authorized User.

## 7.23 SERVICES

Contractor shall comply with the following requirements regarding the Services provided to Authorized Users.

### 7.23.1 NEW ACCOUNTS

Contractor may ask 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. Authorized Users shall not be required to provide credit references.

### 7.23.2 APPLICATION PROGRAM INTERFACE (API) OR SELF-SERVICE ELECTRONIC PORTAL

Contractor may offer an API or self-service electronic portal for such purposes as allowing the Authorized User to view past and current invoices, view outage and restoration information, access security logs, reports and audit information to import or export Data and for such other purposes agreed to in writing by the Authorized User in any Authorized User Agreement.

### 7.23.3 BUSINESS CONTINUITY/DISASTER RECOVERY (BC/DR) OPERATIONS

If requested by OGS or an Authorized User, or both, the Contractor shall provide a Business Continuity and Disaster Recovery plan specific to all Telecommunication Connectivity Services provided. The Contractor shall specify how the BC/DR plan will impact access to the required features and functionality of the Services.

### 7.23.4 CONTRACTOR PERFORMANCE AUDIT

The Contractor shall perform an independent audit of its Telecommunication Service, at least annually, at Contractor expense.

### 7.23.5 LEGACY SERVICES OR LEGACY DEVICES

Contractor must provide notice to OGS and any affected Authorized Users of the Contractor's decision to deem any Service or Device End-of-Life. Once OGS and the Authorized User have been notified by a Telecommunication Provider that a Service or Device is nearing End-of-Life, the Service or Device will be considered Legacy and must be supported for a period no less than 12 months. Telecommunication Providers may not begin service agreements with or supply Devices to 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 a 12 month period. During this 12 month period Contractor must migrate the Authorized User to an equal or better Telecommunication Connectivity Service at an equal or lower price.

#### 7.23.5.1 MAINTENANCE/SUPPORT

If a Telecommunication Connectivity Service is considered Legacy, then the Contractor shall continue to provide Maintenance/support for a 12 month period, or until all affected Authorized Users have been migrated to equal or better Telecommunication Connectivity Service. Contractor shall continue to provide Maintenance/support in accordance with Section 6.36 - Maintenance and Support of the resulting Contract.

## 7.24 EMERGING TECHNOLOGIES

Contractors may be continuously testing new Telecommunication Connectivity Services or developing new Services. Therefore, the State reserves the right to allow for Emerging Technology.

A Contractor will have the opportunity to request the addition of Emerging Technologies during the life of the resulting Contract unless stated otherwise by OGS. Acceptance or denial of the Emerging Technologies is at the discretion of OGS. Once the Emerging Technology offering becomes generally available, it will be OGS's sole and absolute discretion whether or not to amend the resulting Contract to include the Emerging Technology or service offering.

## 7.25 NOTICES

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to the resulting Contract shall be in writing and shall be validly given when mailed by registered or certified mail, or hand delivered, (i) if to the State, addressed to the State at its address:

23100 Contract Administrator  
Office of General Services  
New York State Procurement  
38th Floor Corning Tower  
Empire State Plaza  
Albany, NY 12242

and (ii) if to Contractor, addressed to Contract Administrator at the address included in Attachment 1 – Administrative Information, Bidder Information tab. Either Party may from time to time, specify any address in the United States as its address for purpose of notices under this Agreement by giving fifteen (15) Days Written notice to the other party. The Parties agree to mutually designate individuals as their respective representatives for purposes of the resulting Contract.

All notices sent shall be effective upon actual receipt by the receiving party. The Contractor will be required to forward a copy of the official notice to an Authorized User that is associated with the subject of the notice.

Written notice of any alleged breach by one party to the other shall provide specific facts, circumstances and grounds upon which the breach is being declared.

#### 7.26 PRESS RELEASES / CONTRACTOR ADVERTISEMENT / CONTRACT PUBLICITY

Under Appendix B, Contract Publicity, Contractor agrees that no brochure, news/media/press release, public announcement, or memorandum containing information of any kind regarding the resulting Contract shall be disseminated in any way to the public. Contractor shall not give any presentation regarding the resulting Contract without prior Written approval from OGS. OGS shall not unreasonably withhold or delay providing Contractor its prior Written approval. However, Contractor shall be authorized to provide copies of the resulting Contract and answer any questions relating to the resulting Contract to any State regulator, Federal regulator, and/or financial institution in connection with Contractors financial activities and/or any private or public offering.

OGS must review and approve all press or media releases, advertisements, or promotional literature that Contractor wishes to advertise about the Services they provide on Contract. Contractor shall submit a request to advertise to the assigned Contract Management Specialist for review and comment. Contractor shall not distribute press or media releases, advertisements, or promotional literature without prior Written approval to do so by OGS.

#### 7.27 CAPTIONS

The captions contained in the resulting Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

#### 7.28 SEVERABILITY

If any provision of the resulting Contract is deemed invalid or unenforceable by OGS, such determination shall have no effect on the balance of the resulting Contract, which shall be enforced and interpreted as if such provision was never included in the resulting Contract.

### **Section 8. REQUIREMENTS FOR AUTHORIZED USER AGREEMENTS**

The following terms and conditions shall apply to all Authorized User RFQs and resulting Authorized User Agreements, or all Authorized User Purchase Orders.

#### 8.1 REQUEST FOR QUOTATIONS (RFQs)

OGS highly recommends that all Authorized Users develop a competitive RFQ that will be distributed to the awarded Contractors, in the applicable Lot. Contractors will compete against each other by submitting responses to the Authorized User as directed in the RFQ. The winning Contractor will enter into an Authorized User Agreement with the Authorized User. An award may be based on a Lowest Price or Best Value, as specified in the RFQ. Authorized User shall give Contractors a minimum of fifteen (15) Business Days to respond to an RFQ.



OGS reserves the right to undertake aggregate purchase agreements on behalf of Authorized Users. If undertaken, these will be procured through an RFQ process with all applicable Contract holders. Additional transactions may or may not include a reverse auction process.

Further details and requirements for RFQs and resulting Authorized User Agreements can be found in Attachment 7 – How to Use.

### 8.1.1 RESPONDING TO RFQS

Contractor will provide a Quote to an Authorized User after receiving an RFQ for any Service that is currently on the Contractor's approved pricelist. The response must clearly indicate information such as a detailed Service Description, compatible Accessories, included features, available features, and pricing as required in the RFQ. Contractor should provide best and final pricing to Authorized Users.

All prices must be itemized and included in the Contractor's Quote. All itemized prices shown in the Contractor's quote must have SKUs that correspond with SKUs that appear on the Contractor's approved pricelist. The prices included in the Contracts are Maximum-Not-to-Exceed prices. A Contractor's Quote must reflect equal or better pricing than what appears on the Contractor's OGS approved pricelist for each SKU.

The Contractor is required to honor all Quotes for the length of the Service as described in the RFQ, regardless of price increases.

### 8.1.2 COMPETITIVE RFQ

OGS highly recommends that all Authorized Users develop a competitive RFQ that will be distributed to the awarded Contractors, in the applicable Lot. Contractors will compete against each other by submitting Quotes to the Authorized User as directed in the RFQ. If requested by an Authorized User, Contractors must submit any proposed Service Level Agreements (SLA) or similar additional terms and conditions as part of their Quote, to be evaluated by the Authorized User. The awarded Contractor will enter into an Authorized User Agreement with the Authorized User. An award may be based on a Lowest Price or Best Value, as specified in the RFQ.

### 8.1.3 PROTESTS AND DISPUTES

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

### 8.1.4 PHYSICAL SERVICE CONNECTION CHARGES – STATEMENT OF WORK

Request for quotes, whether formal or informal that contain a Physical Service Connection Charge may include a deliverable-based Statement of Work (SOW). RFQs or Purchase Orders should be as detailed as possible, and may, contain the following:

1. Authorized User Information;
2. Current Set Up;
3. Desired Set Up;
4. Location;
5. Projected Time Frame;
6. Anticipated Duration;
7. Hours (start and stop times, and whether overtime is anticipated);
8. Days of the week requested;
9. Estimated Start Date;
10. Security Protocols;
11. Site Information;
12. Site Security Protocols;
13. Pre-Installation Site Visit Details;
14. Project Inspection Criteria;
15. Project Acceptance Criteria;
16. RFQ response details such as due date and time;
17. RFQ Method of Award;

18. Additional Specifications, Qualifications, Experience or Skill Levels; and
19. Other information and requirements necessary for the particular engagement.

#### 8.1.4.1 DEVELOPMENT OF PROJECT PLAN

Upon the Authorized User's request, the Contractor must develop a Written proposed project plan for connecting the Authorized User to the requested Telecommunication Connectivity Services. Specific requirements of the plan should be defined in the request for quote, whether formal or informal. The Authorized User may require a Contractor to provide information such as the following:

1. Name, Contact Information and Experience of the entity whom will be providing the installation;
2. Name, Contact Information and Experience for the SPOC;
3. Name, Contact Information and Experience of the Project Manager;
4. Names, Contact Information and Experience of the installation personnel;
5. Timeframe for the installation;
6. Installation Milestones;
7. Installation Service Methods;
8. Identification of Potential Safety Issues or Other Problems;
9. Identification of Possible Remediation Ideas;
10. Responsibilities of the Authorized User during the installation;
11. A statement that the Contractor agrees to furnish all labor and supervision necessary to successfully perform the required installation;
12. Escalation procedures including management personnel contact numbers;
13. Full and complete documentation of all installation work;
14. An installation acceptance plan; and
15. Anything else as agreed to with the Authorized User.

If required, this plan shall be approved by the Authorized User, or their designee, in writing prior to the commencement of work.

#### 8.1.4.2 NEGOTIATION OF FINAL PROJECT PLAN

If the Authorized User chooses to require a project plan, the State further reserves the right for Authorized Users to negotiate the final project plan with the apparent RFQ awardee. Such negotiation must not substantively change the scope of the RFQ but can alter timeframes or other incidental factors of the final project plan. Authorized User should provide the Contractor a minimum of five (5) Business Days notice of the final negotiation date. The Authorized User reserves the right to move to the next responsible and responsive Quote if Contractor negotiations are unsuccessful.

#### 8.1.5 ESCALATION PROCEDURES DURING SERVICE REPAIR

Contractor's escalation procedures will be posted on the OGS website. If an Authorized User requires any additional escalation procedures, then the Authorized User must include the additional escalation procedures as a requirement in their RFQ. When responding to an Authorized User's RFQ Contractors shall disclose any additional escalation procedures as part of their Quote

### 8.2 STANDARDS COMPLIANCE

The Services proposed by Contractor must meet or exceed all required national and international standards such as those set forth by the American National Standards Institute (ANSI) and the International Telecommunications Union (ITU).

Contractor may be required to describe the measures they will take to ensure they will comply with all industry standards.

### 8.3 SERVICE CHANGES

After the Services are initiated, it is expected that an Authorized User's needs will increase and decrease as demands and responsibilities change for the Authorized User. Examples of Service changes include but are not limited to additional features, bandwidth, circuits, or lines. Authorized Users may submit Service change requests in writing at any time. Service change requests submitted shall be deemed received by Contractor on the date submitted.



All Authorized User Service change requests shall be in writing to Contractor's Account Manager as listed on the Contractor Information document. Service change requests shall at a minimum include the following information: the resulting Contract Number, the Authorized User's account number, and a brief description of the requested Service changes. Upon Contractor's receipt of a Service change request, Written confirmation shall be provided to the Authorized User. Contractor's Written confirmation will be sufficiently detailed, and include, at a minimum, the following: current Service description, date of the original order, date of the Service change request, delivery information, Authorized User name, resulting Contract Number, and Authorized User's account number.

The Contractor must not charge the Authorized User a fee for submitting a Service change request.

### 8.3.1 ADDITIONS

Authorized Users may require additional features, bandwidth, circuits, and/or lines of the Service than what was included in the Authorized User Agreement or Purchase Order. Authorized User may request additional features, bandwidth, circuits, and/or lines from the Contractor. Contractor must provide additional features, bandwidth, circuits, and/or lines under the terms and conditions, including pricing, of the Authorized User Agreement or Purchase Order.

### 8.3.2 REDUCTIONS

Authorized Users may not use every feature, bandwidth, circuit, and/or lines of the Service than what was included in the Authorized User Agreement or Purchase Order. Authorized User may request that Contractor provide a report showing their use of Services. There may be certain instances where Contractor will not have all of the requested information. For example, if a telephone line only receives inbound calls, the Contractor will not know the use of that particular line. When use information is available, Contractor must advise the Authorized User in writing of the features, bandwidth, circuits, and/or lines not in use by the Authorized User. It will be at the Authorized User's discretion to request a reduction in Services to remove or discontinue features, bandwidth, circuits, and/or lines.

## 8.4 POOR PERFORMANCE

Authorized Users should notify Procurement Services Customer Services promptly if the Contractor fails to meet the requirements of the resulting Contract. Performance which does not comply with requirements or is otherwise unsatisfactory to the Authorized User should also be reported to Customer Services:

Office of General Services  
New York State Procurement  
38th Floor Corning Tower  
Empire State Plaza  
Albany, NY 12242  
Customer Services Coordination E-mail: [customer.services@ogs.ny.gov](mailto:customer.services@ogs.ny.gov)  
Telephone: (518) 474-6717

## 8.5 REQUIRED RECORDS

Contractors must, at minimum, maintain and retain all invoicing and service records for a period of 7 years from the payment date of the final invoice date or service, or as provided to the Authorized User via the resulting Contract or unless otherwise statutorily required, whichever is longer. These records may be maintained in hard copy or electronic format. In the event of any discrepancies involving monthly charges failure to provide required backup copies within thirty (30) Calendar Days from Written notice by OGS and/or an Authorized User may result in additional credits or refunds for any overcharges claimed.

The required invoicing and service records must include, at a minimum, the following:

1. The total number and type of Services initially installed at the Authorized User;
2. A list of account numbers and Authorized User identification associated with the Services initially installed at the Authorized Users location if applicable;
3. A list of all additional Services installed at the Authorized User's location including the date of the new Service order, the projected date of Service installation and the actual date of Service installation;

4. A list of all repair notices since initial Service activation including the date and time of the Service trouble report, the nature of the problem reported, and date/time of problem resolution.

Should the Authorized User have the Services activated in multiple locations, the Contractor must provide the above listed information for each individual location

Unless otherwise agreed to in writing, the Contractor must provide this information, from complete detail to a simple report format understandable to the “lay person,” to OGS and/or the Authorized User within ten (10) Business Days of such request.

## 8.6 AUTHORIZED USERS

Authorized Users may have additional requirements that must be met by the Contractor. These additional requirements must be presented to the Contractor in the Authorized User’s RFQ. Additional requirements must be within the defined scope of the Services included in the resulting Contract.