

Appendix C – Contract Modification Procedure

These Contract Modification Procedures, which incorporate the Contract Modification Form and Appendix C.1 - Contract Pricing Modifications, are subject to change at the discretion of OGS. A Contract Amendment requires a formally executed document by mutual agreement of the Parties, to be provided by OGS Contract Administrator, after submission and approval of the Contract Modification Form. There are four types of Contract Modifications: E-Poll Book System Updates, Related Products and Services Updates, E-Poll Book System Updates, and Amendments.

1. TYPES OF CONTRACT MODIFICATIONS: In order to expedite processing of a contract modification, where proposed changes involve more than one category below, each change should be submitted to OGS as a separate request.

1.1 UPDATES: "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. Updates may fall into one of the following categories: 1) Administrative Updates, 2) Related Product and Services Updates, and 3) E-Poll Book System Updates.

1.1.1 "Administrative Updates" are changes that do not impact the pricing methodology established within the Contract terms and conditions. These updates may include:

- Lowering pricing of Products.
- Changes to Contractor contact information.
- Updates to the Contractor's New York State Counties coverage list.

Changes to Contractor contact information and/or changes to the Contractor New York State Counties coverage list must be submitted on an Administrative Change Request form (in addition to submitting the Appendix C, *Contract Modification Form*).

Administrative Updates must be submitted to OGS and will take effect after review and approval by OGS of a complete submission.

1.1.2 "Related Product and Services Updates" are changes related to the Contractor's Related Products, Training Services and/or Support Services. All adds/changes are subject to the prior approval of SBOE, proof of which must be provided by the Contractor along with the Appendix C, *Contract Modification Form* These updates may include:

- Adding new Products, as approved by SBOE, under Contractor's Related Products, Training Services and/or Support Services;
- Deleting Products for EOL.
- Annual price increases.

Related Product and Services Updates must be submitted to OGS for review and approval and must be accompanied by a justification of reasonableness of price in accordance with Section 6.1, *Reasonableness of Pricing*, below. Annual price increases will require submission of documentation to support the increase to the Manufacturer's NYS Price List. Requests to delete products will require submission of End of Life (EOL) documentation (press release, customer notification, internal notification, etc.) as justification for removal of products. Deleted products will not be allowed to be placed back onto the contract unless approved by OGS.

1.1.3 "E-Poll Book Systems Updates" are changes related to a SBOE approved E-Poll Book System. All adds/changes are subject to the prior approval of SBOE, proof of which must be provided by the Contractor along with the Appendix C, *Contract Modification Form*.

E-Poll Book Systems Updates must be submitted to OGS for review and approval and must be accompanied by a justification of reasonableness of price in accordance with Section 6.1, *Reasonableness of Pricing*, below. Requests to delete products will require submission of End of Life (EOL) documentation (press release, customer notification, internal notification, etc.) as justification for removal of products. Deleted products will not be allowed to be placed back onto the contract unless approved by OGS.

1.2 AMENDMENTS: “Amendments” are changes that are not specifically covered by the terms and conditions of the Centralized Contract but inclusion is found to be in the best interest of the State. Requests for product changes and other requests that would require changes to the terms and conditions of the Centralized Contract would fall into the Amendments category, subject to SBOE approval, as applicable. Contractor must provide a written justification of reasonableness of the price levels offered in the applicable Program Agreement and a statement explaining why it is in the best interest of the State to approve the requested amendment. Amendments typically require negotiation between OGS and the Contractor. OGS will work directly with the Contractor to obtain the required documentation for each requested amendment and notify Contractor in writing if approved.

2. CONTRACTOR’S SUBMISSION OF CONTRACT MODIFICATIONS: In connection with any Contract modification, OGS reserves the right to:

- request additional information
- reject Contract modifications
- remove Products from Contract modification requests
- request additional discounts for new or existing Products

3. PRICE LEVEL JUSTIFICATION – FORMAT: Contractor is required to submit the Product and price level information for the update in an Excel spreadsheet format electronically via e-mail (and in hard copy if requested by OGS) to the OGS Contract Administrator. The list must be dated. The Product and price level information should include and identify (e.g., by use of separate worksheets or by using italics, bold and/or color fonts):

- Price level increases
- Price level decreases
- Products being added

4. SUPPORTING DOCUMENTATION: Each modification request must include the current contract pricing discount relevant to the Products included in the update.

5. SUBMITTAL OF MODIFICATION REQUESTS: A Contract modification request must be accompanied by a completed Contract Modification Form. Contractor should briefly describe the nature and purpose of the update (e.g., update requested in order to reflect a recently approved GSA schedule, to restructure the price level to its customers generally, and/or for new Products which fall into a new group or category that did not exist at the time of approval of the Contract by OGS). The Contract Modification Form must contain original signatures by an individual authorized to sign on behalf of Contractor and must be notarized.

6. PRICING:

6.1 REASONABLENESS OF PRICE.

NYS Net Pricing offered in Appendix C.1, Contract Pricing Modifications will be reviewed by OGS to assess reasonableness of price. Contractors are encouraged to offer their best possible pricing. The Contract Price Lists referenced in Section 6.1.1 below will be accepted as documentation of reasonableness of price. Contractors should carefully read the instructions to Appendix C.1, Contract Pricing Modifications to be sure that all information requested therein is provided and proposed pricing is equal to or better than the applicable price list referenced in Section 6.1.1 below.

In no event shall NYS Net Price in Appendix C.1, Contract Pricing Modifications exceed the Contractor’s list price on their Published Price List.

If Products are not available through one of the types of published price lists referenced, the Products shall not be offered under the Contract.

If reasonableness of pricing is not demonstrated to OGS’s satisfaction, the Contractor’s Contract Modification may be non-approved.

6.1.1 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 executed by 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 the contract modification was submitted to OGS; and
4. Contract and contract pricelist (both in searchable PDF or Excel spreadsheet) will be included with contract modification request.

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 the contract modification was submitted to OGS; and
4. Contract and contract pricelist (both in searchable PDF or Excel spreadsheet) will be included with contract modification request.

3. PAID INVOICES OR RECEIPTS FROM GOVERNMENT ENTITIES.

1. Product(s) invoices must be paid (i.e. amounts have been paid and funds have been collected by the Government Entity);
2. Paid invoices are to be provided in searchable PDF;
3. Sufficient information must be included on the invoice to identify the Product(s), including the following:
 - a) Government Entity;
 - b) Description of Product(s);
 - c) SKU or unique Product name, or unique detailed description of Product; and
 - d) Net price of each Product;
4. Invoice date must be no more than 12 months prior to the date the contract modification was submitted to OGS; and
5. All paid invoices will be included with the contract modification request.

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 the contract modification was submitted to OGS;
5. Contract and either the contract pricelist or the Sales Report (both in searchable PDF or Excel spreadsheet) will be included with the contract modification request.

5. MANUFACTURER SUGGESTED RETAIL PRICE (MSRP) PRICE LIST.

1. Only acceptable if proof from options 1 – 4 is not available for the Product(s);
2. MSRP (or equivalent) must be available to Bidder's commercial customers;
3. MSRP pricelist must be submitted as a searchable PDF;
4. OGS retains the right to reject MSRP as justification of price.

6.1.2 MONETARY VALUES.

All monetary values shall be in U.S. Dollar amounts and will be two decimal points (For Example - \$1.12).

6.1.3 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").

6.1.4 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.

6.1.5 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.

6.1.6 VOLUME DISCOUNTS.

A Contractor is encouraged to offer volume discounts.

6.1.7 DISCOUNTS.

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

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

6.1.8 PRICE INCREASES.

Pricing submitted with the Bidder Submission shall remain in effect for a minimum of 1 year from the Bidder Submission due date or the date that OGS received the Bidder Submission. Thereafter, Contractor may request annual price increases to reflect price changes only once every 365 days per Product. Price increases are subject to all Contract update provisions included within Appendix C, Contract Modification Procedures.

6.1.9 COMPLETE PRICE.

Pricing included in Appendix C.1, Contract Pricing Modifications submitted with the contract modification request shall reflect the complete cost of the Product.

Contract Modification Form

Contract No.	Contract Description		
Contractor Name		Contract Period From To	Date of Submission
Contract Contact Name	Contractor Phone Number	Contractor E-Mail	

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

INSTRUCTIONS:

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

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

3. Contractor shall submit the Product and price level information for the Contract Modification electronically via e-mail by means of Appendix C.1 (and in hardcopy if requested by OGS) to the OGS Contract Administrator for this Contract.
4. Price level increase requests must be submitted in accordance with the terms and conditions herein.
5. OGS will return a copy of this form to the Contractor with the results of the OGS Review.

Request Type	Description of Request
<input type="checkbox"/> Administrative Update	<input type="checkbox"/> Change in pricing resulting in decreased NYS pricing. <input type="checkbox"/> Change to Contractor contact information <input type="checkbox"/> Change to New York State Counties list: <input type="checkbox"/> Addition <input type="checkbox"/> Deletion <input type="checkbox"/> Revision
<input type="checkbox"/> Related Products and Services Update	<input type="checkbox"/> Adding new Related Products and/or Services <input type="checkbox"/> Adding new Categories and/or Products not within the established pricing methodology., <input type="checkbox"/> Annual Price Increases <input type="checkbox"/> Deletion of Products or services <input type="checkbox"/> Reasonableness of Price Documentation for all Product adds and Price Increases is Attached
<input type="checkbox"/> E-Poll Book System Update	<input type="checkbox"/> Proof of SBOE approval of E-Poll Book System change is attached <input type="checkbox"/> Required Published Price List information is attached <input type="checkbox"/> Required Reasonableness of Pricing information is attached <input type="checkbox"/> Required Price Pages are completed and attached

Submitted Appendix C.1: Yes No

All Discounts Are

- GSA
- Other - Please Explain:

Attached Documentation Includes

- NYS Centralized Price List (indicate Contract #)
- Federal Contract Price List (indicate Federal Contract #)
- Other NYS or Governmental Entity Contract (indicate Entity and Contract #)
- Paid Invoices from Governmental Entity (Identify Customer Name)
- Governmental Entity Contract Price List and/or Invoices of Reseller (where Products are sold by Reseller) (Indicate Contract # , Customer Name and Reseller Name)
- Manufacturer's Commercial Price List
- Manufacturer's Suggested Price List
- Manufacturer's Suggested Retail Price List
- Manufacturer's Online Store Pricing
- Administrative Change Request form
- Justification required for Contract Modification
- Other - Please Explain:

Description and Purpose of Contract Modification

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

ACKNOWLEDGEMENT

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

Signature of Authorized Contractor Representative

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

OGS REVIEW	
ADMINISTRATIVE UPDATE <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved (see OGS Comments)	RELATED PRODUCT AND SERVICES UPDATE <input type="checkbox"/> Approved <input type="checkbox"/> Approved as Amended <input type="checkbox"/> Disapproved (see OGS Comments)
E-POLL BOOK UPDATE <input type="checkbox"/> Approved <input type="checkbox"/> Approved as Amended <input type="checkbox"/> Disapproved (see OGS Comments)	
OGS Comments:	
Name: _____ Title: _____ Date _____	

**Appendix C.1, Contract Pricing Modification
(form will be provided with Contract)**

Administrative Change Request
(form will be provided with Contract)