

## Appendix G – How To Use the Manufacturer Umbrella Contract

Authorized Users must follow these How to Use the Manufacturer Umbrella Contract procedures, and must adhere to the terms and conditions of the Manufacturer Umbrella Contract (“Contract”) when procuring Products from Award 22802.

This document provides Authorized Users with instructions on how to use the Manufacturer Umbrella Contract. These instructions assume Authorized Users have a working knowledge of procurement methodology. For purposes of this Appendix G document the terms ‘Bidder’ shall refer to the Manufacturer Umbrella Contractor or Reseller responding to, and ‘bid’ their response to, an Authorized User’s Request for Quote (RFQ) for Manufacturer Umbrella Contract Product.

Additional general procurement information is available at the New York State Office of General Services Procurement website. (<https://ogs.ny.gov/procurement> )

For any questions or concerns regarding the Contract, Authorized Users can contact the following mailbox:  
[MfrUmbrella.AuthorizedUsers@ogs.ny.gov](mailto:MfrUmbrella.AuthorizedUsers@ogs.ny.gov)

**The Office of the State Comptroller retains the right to post-audit any procurement, including those executed from this Contract. Authorized Users are reminded to maintain a complete procurement record.**

Prior to making a purchase, any **State Agency Authorized Users** whose systems are managed or administered by New York State Office of Information Technology (ITS), must contact their Deputy Commissioner for Technology to determine if an ITS owned or managed service is available for use. Agencies are reminded of the requirement for an approved Plan to Procure in accordance with the ITS Plan to Procure Policy, available via <https://its.ny.gov/system/files/documents/2023/07/nys-p08-001-plan-to-procure.pdf>, with exceptions to technology standards granted in limited circumstances.

### Section 1 GENERAL CONTRACT INFORMATION

#### 1.1 CONTRACT SCOPE

The intent of this Contract is to streamline the procurement of Information Technology (IT) needs for Authorized Users. This Contract provides for the procurement of Software, Hardware, Cloud Solutions, and related Implementation services from Manufacturers or their authorized Resellers.

#### 1.2 LOTS

Authorized User Agreements may include one or more of the following four lots:

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

#### 1.3 REQUEST FOR QUOTES (RFQ) REQUIREMENT

A competitive Request for Quote (RFQ) process is **required** for all Authorized User transactions (except as provided for in Appendix B, Section 27(e) – Contract Migration). The Contract sets forth base terms and conditions. The RFQ process requires the Authorized User to solicit the Manufacturers and their authorized Resellers.

## **1.4 APPENDIX E – PRICING PAGES / NOT-TO-EXCEED PRICING**

Authorized Users are reminded that all Contractors under the Umbrella Manufacturer Contract have a public Appendix E – Pricing Pages, and all Products within them are subject to review for scope and reasonableness of price by the Office of General Services: Procurement Services. All items within a bid response must be on the Appendix E. Finally, all pricing under the Contract is not-to-exceed, meaning bidder pricing for each SKU must be equal to or lower than the Net NYS Price found on the respective Appendix E – Pricing Pages.

### **1.4.1 COMeT**

NYS Procurement Services has implemented a Centralized Online Management e-Procurement Tool, referred to as COMeT. This Microsoft Dynamics CRM Cloud solution provides an efficient and effective self-service portal for Manufacturers (Phase 1) and a Request for Quote (RFQ) system (Phase 2) allowing external users to release RFQs and the Contract vendors to respond.

The COMeT Portal can be found here: <https://ogs.ny.gov/comet>

## **1.5 VERSION OF TERMS AND CONDITIONS / CONTRACTOR MATRIX**

While the Umbrella Manufacturer Contract aims to have all Contractors under the same terms and conditions, each iteration of the Periodic Recruitment aims to improve the Contract for all involved. Therefore, there are times when the terms and conditions differ by Manufacturer. To see which set of terms apply to which Manufacturer, Authorized Users can find a Contractor Matrix by clicking the “PLEASE (CLICK HERE) BEFORE USING THIS CONTRACT” link on the Contract’s landing page. Alternatively, the following link will directly open the Contractor Matrix:

<https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802ContractorMatrix.xlsx>

## **1.6 LIMITING RFQs to USE of SBE, MWBE, AND SDVOB**

If the RFQ will not exceed the Authorized User’s applicable discretionary spending limit per State Finance Law Section 163 subsection 6, an Authorized User may utilize Vendors with the following certified designations:

- a. NYS Small Business Enterprise (SBE)
- b. NYS Minority Owned Business Enterprise (MBE)
- c. NYS Women Owned Business Enterprise (WBE)
- d. NYS Service-Disabled Veteran-Owned Business (SDVOB)

The Authorized User must be aware that the following stipulations apply when utilizing under the Contract:

- The Authorized User cannot send the RFQ to just one of the above listed designations. The RFQ must be sent to all Vendors who hold one or more of the designations.
- If targeting a specific Manufacturer, there must be at least five (5) Resellers under them who hold at least one of the designations.

## **1.7 PROHIBITED USES**

Utilizing this Contract in the below noted ways is **prohibited**:

- Submitting a Purchase Order directly to a Contractor without first utilizing the RFQ process (except as provided for in Appendix B, Section 27(e) – Contract Migration).
- Comparing prices between Contractors, then submitting a Purchase Order to the Contractor with the lowest price.
- Calling Contractors for pricing, then submitting a Purchase Order to the Contractor that quotes the lowest price.
- Purchasing products not on Contract on the same Purchase Order as Contract products.

## **1.8 BASIS FOR AWARD**

Based on the Authorized User’s business need, one of the following methods of award for financial/technical weighting options must be utilized when developing the RFQ:

Method for Award		Minimum Requirement
- Lowest Price Meeting Specified Technical Requirements	→	- The Product/Services must meet the stated specifications.
- Lowest Price Meeting Specified Technical Requirements <b>and</b> Mandatory Pass/Fail Requirements	→	- The Product(s) must meet the stated specifications - Mandatory pass/fail requirements must be met
- Best Value with Technical and Financial Score	→	- The Product(s) must meet the stated specifications - There may be mandatory pass/fail requirements - There is technical score and a financial score - Technical weighting may <u>not exceed</u> 70% including consideration whether to use the quantitative factor set forth in State Finance Law section 163(1)(j), for small or MWBE businesses.

## 1.9 TEMPLATES TO BE USED WHEN CONDUCTING AN RFQ

The Authorized User can develop an RFQ using COMeT, the existing RFQ Templates created by OGS Procurement Services, or their own document. The existing OGS Procurement Services RFQ Templates can be modified to fit the AU's individual need. If the Authorized User chooses to use their own RFQ document, it must reference Group 73600, Award 22802, Information Technology Umbrella Contracts – Manufacturer Based (Statewide) and conform to the requirements of Section 2 RFQ Process Overview below. OGS suggests including the following language to ensure the terms of the Contract are applicable to the RFQ:

*“All purchases resulting from this RFQ shall be in accordance with terms and conditions of the OGS Information Technology Umbrella Contract – Manufacturer Based Contract and any additional terms and conditions set forth in this RFQ and its Attachments.”*

### 1.9.1 Request for Quote Templates

There are two separate RFQ templates that may be used to procure from this Contract, depending on the Lots involved:

- The “**Appendix G.1, Request for Quote**” should be used when the RFQ is for Lots 1, 2, or 4.
- The “**Appendix G.3, Request for Quote - Cloud Solution**” should be used for Cloud procurements. This may be used if only Cloud Solutions are included in the procurement, or the template can be used when Cloud Solutions are included along with Products from one or more of the other Lots.
- The “Appendix G.5, CLOUD - RFQ – Cloud Solution Checklist” should be used in conjunction with the Cloud Solution RFQ template to ensure a comprehensive RFQ. The checklist is meant as a baseline for a Cloud Solution procurement and is not necessarily an all-inclusive list of requirements.

### 1.9.2 RFQ Financial Response Template

There is a separate RFQ Financial Response template, Appendix G.2, that may be used to procure from this Contract. The template has three different tabs that may be used depending on the complexity of the procurement:

- The “**Standard Pricing**” tab
- The “**Deliverable-Based Pricing**” tab – should be used when the RFQ requires a fixed-price deliverable-based solution.
- The “**Total Cost of Ownership Pricing**” tab – should be for procurements which incorporate multiple types of pricing methodologies into RFQs, such as Implementation, Recurring Costs, and Data Transfer Items.

## 1.10 OFFICE OF THE STATE COMPTROLLER

In accordance with State Finance Law §112(2), State Agencies must submit all Purchase Orders or Transactions executed from this Contract with a value that exceeds the thresholds contained in this statute to the NYS Office of the State Comptroller (OSC) for prior review and approval<sup>1</sup>.

For purchases made by Authorized Users that are not State Agencies, and that are not otherwise required to submit Purchase Orders or Transactions for prior review and approval to the NYS Office of the State Comptroller, the Authorized User may issue an Authorized User Agreement directly to the Contractor without prior approval by the Office of the State Comptroller.

All Authorized Users are reminded that the Office of the State Comptroller retains the right to post-audit any procurement executed from this Contract. Authorized Users are reminded to follow their own entity's procurement guidelines.

## Section 2 RFQ PROCESS OVERVIEW

The following is an overview of the sequence of events that will typically occur during the RFQ Process, with each step elaborated below:

1. Develop the RFQ
2. Release the RFQ
3. Conduct a Question and Answer Period (optional)
4. Collect RFQ Responses
5. Evaluate RFQ Responses
6. Make a final determination
7. Notify all Contractors/Resellers who responded
8. Develop and finalize your Authorized User Agreement

### 2.1 DEVELOP THE RFQ

In developing the RFQ, Authorized Users should first review:

- The terms and conditions of the Contract;
- The list of [Contractors](#) to determine if the Manufacturer(s) that they are interested in are on the Contract; and
- Those Manufacturers' price lists to see if the type of Product and service they need are listed.
  - If yes, proceed to the relevant procurement steps below.
  - If no, contact the Manufacturer to have the Product and service added to the price list by submitting a Contract Modification Request, and then proceed with the relevant procurement steps below.
- The Contract's Aggregate Buys to determine if the Product(s) needed is available through one of them. The RFQ process has already been completed for Aggregate Buys and Authorized Users may issue a Purchase Order. More information about Aggregate Buys can be found here:

<https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802AggregateBuy.pdf>

#### 2.1.1 Important Items to Include/Consider in the RFQ

An Authorized User RFQ should include, as applicable, such factors as:

- Contract SKUs;
- Delivery requirements, including:
  - Product delivery date,
  - Delivery to an inside location, and
  - Any other unique delivery requirements;
- Necessary qualifications including:
  - Training,
  - Licenses, and
  - Permits;
- Hardware and Software environment;

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<sup>1</sup>For more information, please see the OSC Guide to Financial Operations, Chapter XI.8.a at: <https://www.osc.ny.gov/state-agencies/gfo/chapter-xi/xi8a-centralized-contracts>

- Installation date;
- Systems to integrate with;
- Additional insurance requirements
- Fiscal year budget/legislative deadlines; and
- Quote due date.

### **2.1.2 Request For Information (RFI)**

Prior to releasing an RFQ, the Authorized User may utilize “**Appendix G.6 – RFQ Request for Information (RFI)**” document in order to determine the ability of Manufacturers to meet the proposed specifications and their interest in providing the proposed Products. An RFI should be considered when the Authorized User does not know which Manufacturer(s) or Resellers under the Contract can meet their need. By using this document, the Authorized User can determine which Contractors are interested in participating in the subsequent RFQ. The Authorized User will specify within the RFI whether or not the Contractors and Resellers have to respond in order to receive the resulting RFQ.

An RFI may also be released in COMeT.

### **2.1.3 Choosing a Procurement Scenario**

While developing an RFQ, the Authorized User will decide on the procurement scenario (best value, low price, etc.) that best fits their procurement need.

### **2.1.4 Bid Due Date**

Due to the wide range of products and services offered under the Contract, there is no requirement for a minimum amount of time that an RFQ must be open for. Authorized Users must provide a reasonable amount of time for Vendors to be able to compile a bid, and shall not lose potential bidders due to unreasonably short durations. It must be taken into account if an RFQ is of higher complexity, and the amount of time a Vendor has to provide a bid should reflect that.

### **2.1.5 Statement of Work (SOW)**

In addition to the RFQ Scope / Mandatory Requirements, more complex RFQs may include a Statement of Work (SOW). An SOW may include, but need not be limited to, the following requirements:

- Project Plan,
  - Milestones/timeframes,
  - Dependencies,
  - Roles and responsibilities,
  - Knowledge Transfer, and/or
  - Other decision points;
- Project Timeline, (e.g. site visits, question and answer period);
- Language to retain discounts for Product/Service purchases within the scope of the RFQ;
- Background checks;
- Deliverables/payment points and retainage;
- Key personnel interviews;
- Location where work will be performed;
- Risk projections and mitigation strategies based on the presented RFQ;
- Uptime;
- Delivery and installation of heavy equipment to an inside location that may require a separate site visit;
- Response time;
- Security conditions;
- Disaster Recovery/Business Continuity;
- Data Transfer Services; and/or
- Chargebacks, liquidated damages and/or penalties for not meeting service levels.

## **2.1.6 Additional Authorized User Terms and Conditions**

An Authorized User may include additional terms and conditions within the RFQ and resulting Authorized User Agreement if the additional terms and conditions are more favorable to the Authorized User and do not conflict with or supersede Appendix B Section 28(c). Examples of additional terms and conditions include:

- Inclusion of the NYS Department of Labor Prevailing Rate Schedule<sup>2</sup> when the RFQ scope of work requires the payment of NYS DOL Prevailing Wage Rates (For example, any installation of a product that is hardwired or affixed to a building or real property such as an uninterruptable power supply (UPS) offered on Contract)<sup>3</sup>;
- Expedited delivery timeframe;
- Unique delivery requirements like delivery to an inside location or delivery of heavy equipment to an inside location;
- Additional Vendor incentives, such as discount for expedited payment/Procurement Card use;
- Any additional requirements imposed by the funding source; and
- Any additional/increased insurance requirements.

Note: Authorized Users must not use the ability to require Contractors to provide additional insurance and/or increased insurance coverage to circumvent the requirements in Section 6.2.3 Data Categorization Study of this document.

Any additional terms and conditions should be specific to an Authorized User Agreement only. Terms and conditions between OGS Procurement Services and the Contractor should not be changed. Examples of terms and conditions between OGS and the Contractor include, but are not limited to, reporting of contract sales, pricelist modifications, and the Administrative Fee.

Authorized Users should review each Contractor proposed change and/or addition to determine:

- 1) if it is acceptable and favorable to the Authorized User;
- 2) complies with NYS law; and
- 3) only affects the contractor's obligations to the Authorized User under the contract

Terms and conditions that do not have appropriate justification and do not add any value to the Authorized User (for example, waiving Vendor Responsibility requirements) should not become part of an Authorized User Agreement.

For more information, please see the Authorized User flowchart at the end of this document.

### **2.1.6.1 Terms and Conditions for an RFQ with a Single Contractor and Their Resellers**

When conducting an RFQ where the Contractor has five or more Resellers, Authorized Users are encouraged to reach out to the Contractor prior to the RFQ release to see if the Contractor would propose any changes or additions to the terms and conditions. The Authorized User AU would then review each Contractor proposed change and/or addition to determine if it meets the requirements set forth in Section 2.1.6 Additional Authorized User Terms and Conditions above.

If multiple purchases of similar Products from the same Contractor are made by an Authorized User, it is expected that the terms and conditions discussion will only need to be done the first time an Authorized User is purchasing from a Contractor. For subsequent purchases of similar Products from the Contractor, only material changes to the Contractor's terms and conditions should need to be discussed with the Authorized User (e.g., changes to OCONUS support, FEDRAMP requirements, etc.).

## **2.1.7 Suggested Language to Include in RFQs When Applicable**

<sup>2</sup>For access to the NYS DOL PRC# request page, please copy and paste the following link into an internet browser address bar (as clicking the direct link does not open the page): <https://apps.labor.ny.gov/wpp/showPublicNewProject.do?method=showlt>

<sup>3</sup> Contact information for each Local NYS DOL Bureau of Public Work Office, along with a listing of the counties served by each office, can be accessed using the following link: <https://labor.ny.gov/workerprotection/publicwork/PWContactUs.shtm>

### **Holding Pricing**

OGS recommends that you include language that allows you to hold pricing for products that you intend to re-purchase within the next 6 to 12 months. Authorized Users should refrain from overstating their volume needs and make accurate predictions as to realistic purchase estimates.

*Sample Language: “Agency will purchase some, all or more of the quantities of the products and services detailed in the Financial Response (see Excel spreadsheet) over a twelve (12) month period from date of award, but not necessarily at one time. The Agency requires that the prices be held for twelve (12) months from the date of award.”*

### **Fixed Discount Off List Price**

For long term projects, OGS recommends including a fixed discount off list price to cover future purchases of products and services. If you are including a fixed price discount you need to notify Vendors in your RFQ of your estimated future need and include that need within your fiscal weighting and evaluation. Authorized Users should refrain from overstating their volume needs and make accurate predictions as to realistic purchase estimates.

*Sample Language: “Agency is seeking fixed discounts from list prices. Agency will purchase some, all or more of the quantities of the products and services detailed in the Financial Response (see Excel spreadsheet) over a twenty-four (24) month period from date of award, but not necessarily at one time. The Agency requires that the discount from the list price be held for twenty-four (24) months from the date of award.”*

### **Fixed Discount Off Emerging Needs**

Authorized Users may also add language allowing them to apply the fixed discount to other products or services that fit within the original RFQ scope.

*Sample Language: “For unforeseen future needs or technological developments, the Agency requests the ability to apply the discount from the list price for all other products or services that may fit within the original RFQ scope for a twenty-four (24) month period from date of award.”* If this language is used, Vendor acceptance of this language is required within the Authorized User Agreement.

## **2.1.8 Additional Information Authorized Users Should Be Aware Of**

Authorized Users are reminded that they can:

1. Include additional insurance on top of what is required in Appendix J – Contractor’s Insurance Requirements;
2. Include a Data Transfer Plan;
3. Have a kick off meeting with Contractors;
4. Cap unanticipated enhancements at 20%;
5. Use a polling document to gauge interest among the Manufacturers;
6. Encourage the use of MWBEs, SBEs, and SDVOBs;
7. Send RFQs to only MWBEs, SBEs, and SDVOBs under certain circumstances (Section 1.6 Limiting RFQ’s to Use of SBE, MWBE, and SDVOB);
8. Procure from one (1) Manufacturer if that Manufacturer has more than five (5) Resellers for the applicable Lot;
9. Migrate old OGS contracts over to the Manufacturer Umbrella Contract if the manufacturer is offering the same Products and Services under the Manufacturer Umbrella Contract; and/or
10. Aggregate their spending, as Vendors must hold pricing if the requirement is added per Section 2.1.7 Suggested Language to Include in RFQs When Applicable of this document.

## **2.2 RELEASE THE RFQ**

Once the RFQ has been developed, the Authorized User is ready to release it to the applicable Contractor(s) and Resellers. The Authorized User will attach the applicable RFQ documents in the email and bcc all of the potential bidders they are targeting.



### 2.2.1 RFQ Competition Requirements

The Authorized User transaction shall be competitive, unless migrating from a prior Purchase Order (per Appendix B Section 27(e) – Contract Migration). Once the Authorized User has developed an RFQ, the Authorized User will then identify the corresponding Lot(s) involved and distribute the RFQ in one of the following manners:

**A single Contractor and all of the authorized Resellers under them:**

- This option is used when the Authorized User knows the specific Manufacturer who can meet their procurement needs. **However, this option is only available if the Contractor has at least five (5) approved Resellers in the applicable Lot.** The Authorized User will document the basis for selection of the Contractor/Reseller as well as justification for Basis of Award in its procurement record.

Example: Authorized User wants to procure a laptop from company ABC. Because company ABC has at least five Resellers, the Authorized User can target ABC and the Resellers under ABC.

**All Contractors and Resellers in the applicable Lot(s):**

- This option is used if the Authorized User:
  1. does not know which Manufacturer(s) can meet the need; or
  2. knows that at least a few Manufacturers under the Contract can meet the need; or
  3. knows the Manufacturer that can meet the need but the Manufacturer in question does not have at least five Resellers to meet the competition requirement.

Example 1: Authorized User wants to procure a software that they know is within the scope of the Contract, but does not know who under the Contract can meet the need.

Example 2: Authorized User wants to procure keyboards, which are widely available under the Contract. The Authorized User does not have a particular Manufacturer in mind and wants the lowest price that meets the need.

Example 3: Authorized User wants to procure a product from company XYZ, but company XYZ has just three Resellers.

### 2.2.2 Using the Mailing List to Release RFQ to Bidders

An excel spreadsheet of the List of Vendors and their e-mail addresses can be found by clicking “Listing of Contractors & Resellers” from the Contract’s main landing page. Alternatively, the Excel spreadsheet can be downloaded by clicking the following link:

<https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802ContractorsResellers.xlsx>

## 2.3 CONDUCT A QUESTION AND ANSWER PERIOD (OPTIONAL)

Authorized Users may conduct a question and answer period in order to give potential bidders a chance to obtain further information about the procurement. To ensure fairness, no Vendors can be privy to information that could be beneficial and is not available to the rest of the bidder pool. As such, any response to an inquiry shall be sent to the entire bidder pool.

## 2.4 COLLECT RFQ RESPONSES

Authorized Users must maintain a complete Procurement Record and document all of the RFQ responses that are received. Authorized Users are discouraged from opening bid submissions until the bid period has closed. Authorized Users must finalize the evaluation tools that will be used to assess the bids before opening the bid submissions.

## 2.5 EVALUATE RFQ RESPONSES

### 2.5.1 Evaluation of Quotes

Only after the bid due date can the Authorized User open bid submissions. The RFQ must be evaluated based on the Authorized User’s pre-defined methodology. Evaluation tools cannot be altered after quotes



are received. The evaluation of bids must include a review for acceptability of any additional terms and conditions the Vendor may have submitted with its quote

## **2.5.2 Additional or Alternative Terms and Conditions from Bidder**

1. Pursuant to Appendix B Section 28, a bidder can propose additional or alternative terms and conditions when responding to an RFQ, and an Authorized User may incorporate those additional or alternative terms and conditions if certain conditions are met, except as provided for in subparagraph 3 of this section.
2. Authorized Users are strongly encouraged to read Appendix B Section 28. The Authorized User is responsible for having its agency counsel review and approve such terms and conditions prior to awarding the RFQ. If the terms and conditions are not acceptable to agency counsel, it is the responsibility of such agency counsel to negotiate any needed amendments. Terms and Conditions submitted by the bidder are part of their bid response, and if an agreement cannot be made on terms, the Authorized User may move to the next best bidder.
3. If the AU is limiting its RFQ to a Single Contractor and all of its Resellers in a given Lot (Contractor must have five or more Resellers in the Lot), and the AU and Contractor have agreed to additional or alternative terms and conditions in accordance with Section 2.1.6 Additional Authorized User Terms and Conditions, then the Bidders must not propose additional or alternative terms and conditions as part of their Bid response and the AU must reject any Bid where the Bidder has included additional or alternative terms and conditions.

Any additional or alternative terms and conditions must be specific to an AU agreement only (see Section 2.1.6 Additional Authorized User Terms and Conditions for more information).

It is the responsibility of the Contractor to explain why the terms and conditions are being proposed and how they result in a transaction that is overall more favorable to the Authorized User. Contractors are encouraged to use Appendix G.4.3 - RFQ Deviation Template as part of their proposal to provide clarity to the Authorized User.

## **2.6 MAKE A FINAL DETERMINATION**

After all bids have been inputted into the evaluation tool(s), the Authorized User is ready to make a determination. The Authorized User is awarding based on the pre-defined methodology and method of award that were outlined in the RFQ. As part of the bid review process, the Authorized User must ensure the following:

- The tentative awardee is authorized to do business under the Contract, either as the Manufacturer or as the Reseller. If a Reseller, they must be listed as a Reseller under the Manufacturer whose products they are bidding to provide.
- All Product(s) that the tentative awardee has provided in their financial response are on the Contractor's Appendix E – Pricing Pages.
- All prices offered by the tentative awardee are equal to or lower than the Net NYS Price offered on the Appendix E.

## **2.7 NOTIFY ALL CONTRACTORS/RESELLERS WHO RESPONDED**

### **2.7.1 Notification of Quote Results and Debriefings**

The Authorized User shall notify the non-awardees of RFQ results in a timely manner after notifying the awardee. Non-awardees shall be informed of who the winning bidder is. Authorized Users can provide the awardee's pricing as well as provide feedback on where non-awardees' bids fell short. Authorized Users subject to Article 11 of the State Finance Law shall provide the opportunity for debriefings in accordance with Section 163 (9)(c). All other Authorized Users are strongly encouraged to provide an opportunity for debriefing.

### **2.7.2 Less Than Three Responsive Bids Received**

If less than three (3) responsive proposals are received, an Authorized User must canvass all the no-bid responses and no-replies to determine the reasons for non-participation. The canvass, any feedback to

the canvass, and no-replies to the canvass must be documented in the Procurement Record. Per the canvass feedback, an Authorized User will need to determine whether the RFQ specifications were drawn too narrowly, so as to exclude potential responsive bidders, and whether modification and reissuance of the RFQ would result in a larger pool of qualified bidders and better value to the Authorized User. The feedback may also serve to support the Authorized User's decision to proceed with making an award based on the RFQ as issued.

### **2.7.3 Bid Protests**

Should a protest be submitted by a bidder regarding an RFQ, the protest will be considered and decided by the Authorized User.

## **2.8 DEVELOP AND FINALIZE YOUR AUTHORIZED USER AGREEMENT / RFQ**

### **2.8.1 Negotiation With Tentative Awardee**

Once the tentative award has been made based on Lowest Price or Best Value, the Authorized User may enter negotiations to obtain the best price possible, or to obtain additional savings based on the released RFQ. The Authorized User Agreement shall specify the respective responsibilities of the Authorized User and the Contractor/Reseller. Negotiations shall not include factors that would have altered the evaluation of the RFQ response. Disputes regarding an Authorized User Agreement will also be handled by the Authorized User.

### **2.8.2 At-Risk Work Prohibited**

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

It is recommended that an Authorized User include language in their RFQ allowing for a short term extension (3-6 months) of an Authorized User Agreement to prevent a lapse in coverage.

RFQs should not be issued for work that has already been undertaken prior to the receipt of the executed Authorized User Agreement. Authorized Users should consult their own policies and procedures for determining how to proceed in this situation.

### **2.8.3 Procurement Record and NYS Procurement Council Guidelines**

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

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

<https://ogs.ny.gov/procurement/nys-procurement-council>

## **Section 3 OTHER SCOPE REQUIREMENTS THAT MAY BE APPLICABLE TO AN RFQ**

The clauses contained in this Section may apply to an Authorized User's RFQ. Authorized Users are encouraged to read the clauses below and determine if the clause applies to their RFQ. If the clause applies to the Authorized User's RFQ then the Authorized User must incorporate that clause into their RFQ.

The Contract already contains some clauses that may be applicable to an Authorized User's RFQ. Those clauses are highlighted in the below table to assist Authorized Users in developing an RFQ.

CONTRACT SECTION TITLE	NEW YORK STATE LAW LOCATION
SERVICE REPORTS FOR MAINTENANCE AND WARRANTY WORK	
PREVAILING WAGE RATES – PUBLIC WORKS AND BUILDING SERVICES CONTRACTS	NYS Labor Law Articles 8 and 9
LIVING WAGE	NYC Administrative Code § 6-109

### 3.1 ADDITIONAL INSURANCE

Authorized Users may require Contractors to provide additional insurance and/or increased insurance coverages specific to an RFQ. Authorized Users must define these mandatory requirements in the RFQ. Any Contractor, or a Reseller under the Contractor, not meeting the mandatory insurance requirements shall be rejected. If the Authorized User increases or adds any additional insurance requirements, then it is the responsibility of the Authorized User to ensure the mandatory requirements are met. However, Contractors shall not exceed Contract pricing as a result of additional insurance requirements.

Note: Authorized Users must not use the ability to require Contractors to provide additional insurance and/or increased insurance coverage to circumvent the requirements in Section 6.2.3 Data Categorization Study of this document.

If an RFQ includes Lot 3 – Cloud, please refer to Section 6.2.2 Cloud Risk Assessment by Authorized Users of this document for more details on level of risk as it applies to Contractors and the RFQ process.

### 3.2 IMPLEMENTATION SERVICES (LOT 4)

RFQs for Lot 4 – Implementation Services will be awarded based on a deliverable-based Statement of Work (SOW) agreement. The RFQ will include, but is not limited to: Authorized User timeframes; system integration requirements; and other risks that may affect the cost to the Authorized User.

All responses to RFQs must include detailed price information, including but not limited to: hours required per title, cost per hour etc. Travel, lodging and per diem costs must be itemized in the total quote and may not exceed the rates in the NYS OSC Travel Policy. More information can be found at <http://www.osc.state.ny.us/agencies/travel/travel.htm>.

All costs must be itemized and included in the Contractor's quote.

#### 3.2.1 Conditions on the Contractor

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

#### 3.2.2 Retainage

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

#### 3.2.3 Reserved Right - Unanticipated Enhancements

When the right is reserved in the RFQ, unanticipated enhancements to the services procured not exceeding a cumulative twenty (20) percent (20%) of the Implementation Service cost may be agreed to by the Authorized User. Such inclusion must be included in the Total Cost Evaluation. Such unanticipated enhancements will require a written Authorized User Agreement revision, which for NYS Agency Authorized Users will include an amended Purchase Order. Any changes that will result in exceeding this twenty (20) percent (20%) will require a new competitive RFQ. Contractor shall notify the Authorized User in writing when a requested scope change will exceed the cumulative twenty (20) percent (20%) total value of the Implementation Services.

**3.2.4 Kick-Off Meeting/Project Plan Discussion**

The Authorized User may require a kick-off meeting with the selected Contractor to discuss the project plan. The Authorized User may require numerous tasks by the Contractor, including timeline and cost.

**3.2.5 Maximum 60 Month Time Period**

Time periods will vary based on the complexity of the Authorized User's requirements. Under no circumstances will the project time period, including approved enhancement requests, exceed a maximum 60-month time period.

**3.2.6 Additional Requirements**

The Authorized User should refer to Contract Sections titled Lot Overview, Lot 4 – Implementation Services and Lot 4 – Implementation Specific Terms and Conditions for additional requirements that may be included in an RFQ.

**3.2.7 Building Access and NYS ID**

Executive agencies, may require all employees to obtain a NYS ID (driver's license or non-driver's ID) prior to receiving building access. These IDs must be obtained at no cost to the executive agency.

**3.3 APPENDIX F REQUIREMENTS**

Appendix F - Primary Security and Privacy Mandates provides Authorized Users with an overview of federal and state laws, regulations, policies, standards, and guidelines that may apply to Authorized Users' data. Authorized Users must include all applicable federal and state laws, regulations, policies, standards, and guidelines in their RFQ and resulting Authorized User Agreement.

**3.4 CONDUCTIVE ELECTRONIC WEAPONS (CEWS)**

Tasers, their accessories, and other Conductive Electric Weapons (CEWs) may only be purchased by Authorized Users that are either "Police Officer(s)" as defined by subdivision 34 of §1.20 of the New York State Criminal Procedure Law or "Peace Officer(s)" as defined in §2.10 of the New York State Criminal Procedure Law.

**Section 4 AUTHORIZED USER REFERENCE GUIDE FOR TERMS AND CONDITIONS**

The below table highlights terms and conditions within the Contract that apply to an Authorized User conducting an RFQ. An Authorized User should be familiar with these sections.

<b>CONTRACT SECTION TITLE</b>	<b>NEW YORK STATE LAW LOCATION</b>
OGS CENTRALIZED CONTRACT TERMS AND CONDITIONS	
NYS COMPTROLLER APPROVAL	<a href="#">SFL §112</a>
SUMMARY OF POLICY AND PROHIBITION ON PROCUREMENT LOBBYING	SFL §§ 139-j & 139-k
PREFERRED SOURCE PRODUCTS	SFL § 162
DOWNSTREAM PROHIBITION	SFL §§ 163(2) & 163-a
NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES (ITS) POLICIES	

**Section 5 DEFERRED PAYMENT PLAN PRO TIPS**

Contractor may offer Authorized User a Deferred Payment Plan ("DPP") as defined in §2.5, Glossary, as:

*"a methodology where equipment is purchased on a deferred, extended payment basis with no buyout due after the last monthly payment is remitted. A deferred payment plan is not a lease and the Contractor cannot assert a security interest in the equipment."*

All contract terms and conditions, including acceptance, apply to the Deferred Payment Plan. An Authorized User does not waive any contract terms and conditions by entering into a DPP. State Agencies are reminded that in accordance with Section 41 of the State Finance Law, the State shall have no liability to the Contractor or to anyone else beyond funds appropriated and available.

Before entering into a DPP, the Authorized User should address the following items, among others, with the Contractor:

1. Term – number of months or years
2. Payment amount – Contract price as awarded in the RFQ divided by number of months in the term
3. Prepayment option
4. Cancellation option, including for loss of funding.

### 5.1 Maintenance Considerations

Maintenance should cover the entire duration of the DPP agreement.

### 5.2 Pricing Considerations

When entering into a DPP, the Authorized User must be aware of pricing considerations. DPP should not be used for:

- payments that are already monthly or recurring in nature.
- managed print solutions.
- products that are paid in arrears.

## Section 6 PROCUREMENTS INVOLVING LOT 3 - CLOUD

Before initiating any procurements involving Cloud, Authorized Users should read through this Section carefully to ensure all relevant information is included in their RFQ.

### 6.1 Basic Cloud Concepts

The National Institute of Standards and Technology (NIST) defines Cloud Computing as a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g. networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. The NIST Cloud model is composed of five essential characteristics, various service models, and four deployment models.

OGS recommends that RFQs and the resulting Authorized User Agreements for Cloud Solutions include four well-defined, mutually exclusive sections, along with any other sections required under the Authorized User's established procurement procedures. These sections are:

- **Contact details for the Authorized User Agreement** - which will contain the names and contact information of the individuals who represent the parties for operational purposes.
- **A Statement of Work (SOW)** - which will formalize all functional requirements for the Authorized User Agreement. It will define services, technical requirements, schedules, any required reports, deliverables, etc.
- **Terms and conditions for the RFQ and resulting Authorized User Agreement** - which will include all terms and conditions of the Contractor's Manufacturer Umbrella contract, along with terms and conditions added by the Authorized User and any Contractor terms and conditions which have been agreed to by the Authorized User.
- **Service Level Agreement (SLA) Metrics outline** - which contains expected service metrics and descriptions of consequences for unmet agreed expectations. A Service Level Agreement is the part of the Authorized User Agreement that is subject to the terms and conditions of the Authorized User Agreement and should include the technical service level agreement promises (i.e., metrics for performance and intervals for measurement), timeframes for response to operational problems and failures, and any remedies for performance failures.
  - It is very important to develop service level agreements (SLAs) and reporting requirements with the Cloud service provider. Cloud service levels will vary between all providers, and the Authorized User should agree to the service levels prior to Authorized User Agreement execution. The SLA will define the interactions between the Contractor and the Authorized User, this portion of the Authorized User Agreement should clearly define how the services in scope will be provided. Examples of SLA components include security, quality, availability, performance, incident notification response, and business continuity. Reporting requirements should also be established prior to contract execution. Sample report deliverables that

vendors may provide include SLA reports, Help Desk/Trouble Ticket reports, Service Orders and Sales, Service Utilization and Invoicing/Billing. Consider attaching appropriate, specific remedies for failures to meet specific service levels.

## Cloud Service Models

There are a number of Cloud service models available. Examples of Cloud service models include but are not limited to Software as a Service (SaaS), Platform as a Service (PaaS), Infrastructure as a Service (IaaS) and Anything as a Service (XaaS). Depending on the purpose and desired characteristics of given cloud services, one model may be a better fit than the other for the business requirements at hand.

The models differ in how much responsibility in managing the IT component stack (ranging from Facilities, Network, Storage, Servers, up to Application, its configuration and data) is assigned to the Authorized User as compared to the Manufacturer – Cloud Solution. Regardless of the type of Cloud service model utilized, the Authorized User is still responsible for their Data. The chart below offers a general illustration of which party is responsible for each layer/component of the IT component stack under various service models.

CLOUD SHARED RESPONSIBILITY CHART			
<b>KEY:</b>			
<b>MANAGED BY THE AUTHORIZED USER</b>			
<b>DELIVERED BY THE CLOUD SOLUTION MANUFACTURER</b>			
<b>NON-CLOUD IT:</b>	<b>INFRASTRUCTURE AS A SERVICE:</b>	<b>PLATFORM AS A SERVICE:</b>	<b>SOFTWARE AS A SERVICE:</b>
<b>APPLICATIONS</b>	<b>APPLICATIONS</b>	<b>APPLICATIONS</b>	<b>APPLICATIONS</b>
<b>DATA</b>	<b>DATA</b>	<b>DATA</b>	<b>DATA</b>
<b>RUNTIME</b>	<b>RUNTIME</b>	<b>RUNTIME</b>	<b>RUNTIME</b>
<b>MIDDLEWARE</b>	<b>MIDDLEWARE</b>	<b>MIDDLEWARE</b>	<b>MIDDLEWARE</b>
<b>OPERATING SYSTEM</b>	<b>OPERATING SYSTEM</b>	<b>OPERATING SYSTEM</b>	<b>OPERATING SYSTEM</b>
<b>VIRTUALIZATION</b>	<b>VIRTUALIZATION</b>	<b>VIRTUALIZATION</b>	<b>VIRTUALIZATION</b>
<b>SERVICE</b>	<b>SERVICE</b>	<b>SERVICE</b>	<b>SERVICE</b>
<b>STORAGE</b>	<b>STORAGE</b>	<b>STORAGE</b>	<b>STORAGE</b>
<b>NETWORKING</b>	<b>NETWORKING</b>	<b>NETWORKING</b>	<b>NETWORKING</b>

## Cloud Deployment Models

There are a number of Cloud deployment models available. Examples of Cloud deployment models include but are not limited to Public, Private, Community, and Hybrid. The Authorized User must consider the Cloud deployment model they would prefer to use. In each of the Cloud deployment models it is important to distinguish who will have access to the Cloud infrastructure.

Public Clouds can be accessed by the general public. Private Clouds can be accessed by a single organization. Community Clouds can be accessed by a specific community of several organizations that have shared interests. Hybrid Clouds may be a combination of two or more cloud models (private, community, or public) so access will depend on the agreement between the Contractor/Reseller and the Authorized User.

### 6.2 Scope Requirements That May Be Applicable to A Cloud-Related RFQ

The clauses contained in this Section may apply to an Authorized User's RFQ. An Authorized User is encouraged to read the below clauses and determine if the clause applies to their RFQ. If it does, the Authorized User must incorporate that

clause into their RFQ.

### **6.2.1 Cloud Solutions**

For the duration of an Authorized User Agreement, the Cloud Solution shall conform to the Cloud Solution Manufacturer's specifications, Documentation, performance standards (including applicable license terms, warranties, guarantees, Service Level Agreements, service commitments, and credits).

The Authorized User Agreement shall specify the respective responsibilities of the Authorized User and the Contractor/Reseller.

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

### **6.2.2 Cloud Risk Assessment by Authorized Users**

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

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

### **6.2.3 Data Categorization Study**

It is REQUIRED that prior to a Request for Quote, the Authorized User complete a Data categorization study, consistent with NYS-S14-002 Information Classification Standard (or successor standard) available at: <https://its.ny.gov/document/information-classification-standard> that applies to ITS, all State Agencies that receive services from ITS, staff and affiliates of same which have access to or manage information and serves as recommended practice for the State University of New York, the City University of New York, non-Executive branch agencies, authorities, NYS local governments and third parties acting on behalf of the same to determine the following:

- the level of Data risk (please note this is a Mandatory requirement);
- the required Breach Notification Procedures; and
- the required Cloud service security measures for incorporation.

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

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

It is a Mandatory requirement for Authorized Users to determine the level of Data risk, as it directly impacts which Contractors and authorized Resellers can be awarded the RFQ. Lot 3 Cloud Contractors are approved by OGS at one of three Data risk level thresholds: Low, Moderate, and High. Resellers reflect the risk level of the Contractor. Risk levels are published on the OGS Website and in COMeT at the following:

- A. Contractor Information at the following link: <https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802ContractorPage.pdf>, in the "Appendix D, Contractor and Reseller Information" PDF for every Contractor, or
- B. When an Authorized User is creating an RFQ, COMeT will populate the Vendor Pool with the eligible Vendors based on the Risk Level selected by the Authorized User.



A Contractor is not approved for a Data Risk Level unless OGS Procurement Services has approved and published this on the aforementioned links. If OGS has only published the approval in COMeT, but not yet updated the “Appendix D, Contractor and Reseller Information” on the OGS website, the Contractor is approved for the Data Risk Level.

Note: The approved Data risk level is a maximum. For example, a Contractor that is approved for High Risk Data is approved for Low Risk Data, Moderate Risk Data and High Risk Data. A Contractor that is approved for Moderate Risk Data is approved for Low Risk Data and Moderate Risk Data.

Authorized Users shall only award RFQs to Contractors (or the Resellers of Contractors) that OGS Procurement Services has approved (before the Due Date of the RFQ) for the Data risk threshold as specified in the RFQ.

For example:

1. If an Authorized User determines their Data risk level to be High Risk for an RFQ, then it is Mandatory that the awarded Contractor (including any Resellers on the Contractor's Contract) has a High level of risk by OGS. Contractors (and their Resellers) with Low and Moderate levels of risk would not meet the requirements in this instance and must not be considered for award.
2. If an Authorized User determines their Data Risk Level to be High Risk for an RFQ, and a Reseller bids referencing a Contract when the Contractor is only approved for Moderate Data Risk, the Authorized User must not consider the Reseller for award.
3. An Authorized User determines their Data Risk Level to be High, and wishes to limit the RFQ to a Contractor with Five or more Resellers. If the Contractor is only approved for Moderate Data Risk, the Authorized User must not issue the RFQ to the Contractor and its Reseller until OGS Procurement Services approves the Contractor for High Risk Data.

Contractors are allowed to submit a contract modification request to OGS to increase their risk level threshold in response to an RFQ. Therefore, it is recommended that Authorized Users allow an adequate amount of time from the release of the RFQ and the RFQ due date to ensure that Contractors have time to increase their level of risk if need be. An increase in risk level must be approved by OGS request prior to the quote due date.

NOTE: Once an RFQ is released through COMeT, only those Vendors on the original distribution list will have the ability to respond. If a Vendor did not meet the designated Data Risk Level of the RFQ at the time of release, they will not have the ability to respond to that RFQ through COMeT if they successfully increase their approved Data Risk Level prior to the submission due date.

Refer to Section 3.1 Additional Insurance for general information on Authorized User additional insurance requirements.

#### **6.2.4 Attestation of Cloud Solution Types and Description**

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

#### **6.2.5 Data Transfer**

Except as required for reliability, performance, security, or availability of the services, the Contractor will not transfer Data, unless directed to do so in writing by the Authorized User.

#### **6.2.6 Disaster Recovery and/or Business Continuity Services**

If the Authorized User determines that it requires Disaster Recovery and/or Business Continuity Services, it must specify these requirements in the RFQ in order to ensure that it's required in the Authorized User Agreement.

#### **6.2.7 Areas with Flexibility**

It is essential that Authorized Users fully understand there are specific terms and conditions under

Lot 3 – Cloud Solutions that should be addressed by the Authorized User in the RFQ and the resulting Authorized User Agreement. These terms and conditions can be found within in the Section of the Contract Lot 3 – Cloud Specific Terms and Conditions. Terms and conditions which allow an Authorized User flexibility will include the following language “as agreed by the Authorized User” or “as provided in the Authorized User Agreement.”

Areas that require additional attention by the Authorized User because they allow an Authorized User flexibility include, but are not limited to, the following:

- Cloud Service Model;
- Cloud Deployment Model;
- Data Classification / Level of Risk;
- Modification to Cloud Solution;
- Additional Lots;
- Legal / Policy Compliance;
- Possible Site Visits;
- Additional Terms and Conditions;
- Additional Goals for SBs, MBEs, WBEs and/or SDVOBs;
- Security;
- Service Level Agreement Terms;
- Pricing;
- Increase / Decrease of Usage;
- Managed Services;
- Data Access;
- Data Encryption;
- Security Incident;
- Data Breach;
- Business Continuity / Disaster Recovery;
- Data Transfer / Return;
- Data Destruction;
- Environmental / Recycling;
- Maintenance / Support Agreement;
- Service Reports;
- Contractor Security;
- Contractor's Associates;
- Contractor Performance;
- Dispute Resolution;
- Expiration, Termination or Suspension of Services;
- Statement of Work.

#### **6.2.8 Cloud Online Stores**

Certain Contractors have established online stores where customers can purchase the Contractor's Products and Third Party Products.

Authorized Users must not use these online stores to acquire or deploy any Products, including any Third Party Products, under the Contract if the Product is not on the Contractor's pricelist in COMeT. For example, an Authorized User must not use the Microsoft Azure Marketplace to obtain and deploy an Adobe Cloud Product under Microsoft's Contract as this Adobe Cloud Product SKU is not listed on Microsoft's pricelist in COMeT.

For the Microsoft Azure Marketplace, Authorized Users have the ability to control access to the Azure Marketplace by disabling the Azure Marketplace. It is the sole responsibility of the Authorized User to disable Azure Marketplace to control access to Products that are not on Microsoft's Contract.

For the Amazon Marketplace, Authorized Users have the ability to control access to the Amazon Marketplace by disabling the Amazon Marketplace. It is the sole responsibility of the Authorized User to disable the Amazon Marketplace to control access to Products that are not on Amazon's Contract.

In order for an Authorized User to have a Contractor deploy a Product through an online store under the Contract,

the Authorized User must perform all of the following:

1. Conduct an RFQ in accordance with the procedures outlined in this document. See Section 2.2.1 RFQ Competition Requirements for more information on identifying the bidder pool. Bidders must not be solicited through the online store.
2. Verify the specific SKU the Contractor will be deploying is listed on the Contractor's OGS approved pricelist.
3. If the Product to be deployed is a Third Party Product, verify and document that the Product meets the requirements of Section 6.2.9 Verifying a Lot 3 Contractor is a Cloud Solutions Manufacturer.
4. Establish the Authorized User Agreement resulting from the RFQ using a Purchase Order or other means that stipulate the transaction is under the Contract and subject to its terms and conditions.

#### **6.2.9 Verifying a Lot 3 Contractor is a Cloud Solutions Manufacturer**

All Cloud Solutions offered under the Manufacturer Umbrella Contract must comply with the requirements of the Contract. If an Authorized User is issuing an RFQ where the Contractor will be assembling Third Party Products into its own Proprietary Solution, it must be demonstrated to the Authorized User that the Contractor meets the definition of Manufacturer – Cloud Solution, as defined in the Contract, Section 2.5 - Glossary , for the proposed Cloud Solution.

If the Authorized User is limiting its RFQ to a single Contractor with five or more Resellers in Lot 3, then the Contractor must demonstrate to the Authorized User it meets the definition of a Manufacturer-Cloud Solution for the proposed Cloud Solution. This should be done prior to the Authorized User issuing the RFQ (see Section 2.5.2 - Additional or Alternative Terms and Conditions from Bidder).

If the Authorized User is issuing its RFQ to all Contractors and their Resellers under Lot 3, then every Bidder that submits a Bid in response to the RFQ must demonstrate to the Authorized User the Contractor meets the definition of a Manufacturer-Cloud Solution for the proposed Cloud Solution. This should be done either during any Question and Answer Period set forth in the RFQ or as part of the Bid response.

#### **6.2.10 Hybrid RFQ for Cloud**

Authorized Users are encouraged to consider a hybrid RFQ for Cloud that contains both the SKUs required at the time of purchase, and for any future items needed to maintain/support initial purchase request an additional % discount (for x years) within the same RFQ. OGS recommends adding language to their Cloud RFQ to hold discounts in order to cover potential future needs. Sample language can be found in Section 2.1.7 - Suggested Language to Include in RFQs When Applicable.

**AWARD 22802: IT UMBRELLA MANUFACTURER CONTRACT**  
**Process for Authorized Users Issuing an RFQ to a Single Manufacturer with 5+ Resellers**

