

**Request for Quotations 23-01**  
**(Previously referred to as 22-01 in RFQPI and RFC documents)**  
**Aggregate Hardware Buy**  
**REVISED**

<b>RFQ Title</b> Aggregate Hardware Buy 23-01		<b>RFQ Number</b> 23-01
<b>NYS Office of General Services Procurement Services 38<sup>th</sup> Floor, Corning Tower, ESP Albany, NY 12242</b>		<b>Authorized User Delivery Information</b> Multiple Locations Statewide
<b>DESIGNATED CONTACTS</b>		
<b>Names</b>	<b>E-Mail</b>	
<b>Maureen Younkin, Allison White, Katherine Dias, Margaret Armenia, Karley Delaney, Nancy Dougherty, and Kylesha Davis</b>	<a href="mailto:OGS.sm.PS.AggregateBuy@ogs.ny.gov">OGS.sm.PS.AggregateBuy@ogs.ny.gov</a> <b>Subject Line:</b> Aggregate Hardware Buy 23-01	
<b>Procurement Lobbying Law/Restricted Period is in effect:</b> <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> <i>By signing, Contractor affirms that it understands and agrees to comply with OGS policies and procedures relative to permissible contacts. Information on Procurement Lobbying may be accessed at: <a href="http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html">http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html</a></i>		

**QUESTIONS AND OTHER EVENTS**

OGS is seeking competitive quotes from Contract holders of the OGS Group 73600 Award 22802 Information Technology Umbrella Contract – Manufacturer Based (Statewide) (“**Manufacturer Umbrella Contract**”) for the Lot(s) indicated below. **Quotes from Resellers will not be accepted. Contractors must have an award for Lot 2 to bid on this RFQ.**

Lot 1 – Software     **Lot 2 – Hardware**     Lot 3 – Cloud     Lot 4 – Implementation

**KEY EVENTS/DATES**

Event	Due Date	Time
RFQ 23-01 Release	2/17/2023	
<i>Attachment B - Contractor Questions and Comments Due</i>	3/1/2023	5:00pm EDT
OGS Issues Responses to Questions and Comments	3/15/2023	
<i>Second Attachment B – Contractor Questions and Comments Due</i>	3/17/2023	5:00pm EDT
OGS Issues Responses to Questions and Comments	3/22/2023	
RFQ Submission Due Submission Includes: <ul style="list-style-type: none"> <li>• <i>Attachment A – Technical Response</i></li> <li>• <i>Attachment D – Issue Escalation Plan</i></li> <li>• Manufacturer Information Page (Last page of this Document)</li> </ul>	<del>3/28/2023</del> 4/4/2023	1:30pm EDT
OGS sends out <i>Attachment C – Financial Response</i> , which includes approved technical response	6/28/2023	
Contractor returns completed <i>Attachment C – Financial Response</i>	7/12/2023	11:00am EDT

**Attachment B – Contractor Questions and Comments:**

Questions and Comments for this RFQ will only be accepted up to the *Attachment B - Contractor Questions and Comments* due date and time noted above. Only email submissions of Attachment B will be accepted:

Send emails to: [OGS.sm.PS.AggregateBuy@ogs.ny.gov](mailto:OGS.sm.PS.AggregateBuy@ogs.ny.gov)

Subject line: **Aggregate Hardware Buy 23-01 – Questions and Comments**

For information on RFQ Submission Requirements see RFQ 23-01, Section 4, RFQ Submission Requirements.

**BASIS FOR AWARD** Highest Total Financial Score meeting specified Technical Requirements and Mandatory Pass/Fail Requirements for each Standard Configuration and associated Required Products.

## **ATTACHMENTS AND APPENDICES**

- **RFQ 23-01 Aggregate Hardware Buy**
- ***Attachment A – Technical Response***
- ***Attachment B – Contractor Questions and Comments***
- ***Attachment C – Financial Response***  
**Note: Only Contractors determined by OGS to have passed the technical portion of Stage 2 will be provided *Attachment C – Financial Response.***
- ***Attachment D – Issue Escalation Plan***
- ***Appendix 1 – Aggregate Hardware Buy - Sales Report***
- ***Appendix 2 – Agreement Price List Modification Procedures***
- ***Appendix 3 – Pricing Modification Form***
- ***Appendix 4 – How to Prepare a Successful Quote***
- ***Appendix 5 – Aggregate Hardware Buy - Delayed Delivery Report***

**Table of Contents**

**Section 1. GENERAL ..... 6**

**Section 2. DEFINITIONS ..... 6**

**Section 3. SCOPE ..... 6**

    3.1 PURPOSE..... 6

    3.2 BIDDER ELIGIBILITY..... 7

    3.3 PRODUCTS IN SCOPE..... 7

**Section 4. RFQ SUBMISSION REQUIREMENTS ..... 7**

    4.1 ELECTRONIC SUBMISSION..... 7

    4.2 SUBMISSION PACKAGING..... 7

    4.3 IMPORTANT BUILDING ACCESS PROCEDURES..... 8

    4.4 BID VALIDITY..... 8

        4.4.1 BID INQUIRIES..... 8

**Section 5. METHOD OF AWARD..... 8**

    5.1 EVALUATION PROCESS..... 8

        5.1.1 STAGE 1 ADMINISTRATIVE REVIEW..... 9

        5.1.2 STAGE 2 TECHNICAL EVALUATION OF CONFIGURATION SUBMISSION..... 9

        5.1.3 STAGE 3 FINANCIAL EVALUATION ..... 9

**Section 6. EVALUATION COMPONENTS..... 9**

    6.1 MANDATORY OFFERINGS..... 9

        6.1.1 STANDARD CONFIGURATIONS..... 10

        6.1.2 REQUIRED PRODUCTS..... 10

    6.2 OPTIONAL PRODUCTS..... 10

        6.2.1 ADDITIONAL PRODUCTS..... 10

    6.3 DISCOUNT PERCENTAGE..... 11

        6.3.1 STANDARD CONFIGURATION DISCOUNT..... 11

        6.3.2 REQUIRED PRODUCTS DISCOUNT..... 11

    6.4 DEBRIEFING..... 11

    6.5 DISPUTE RESOLUTION..... 11

**Section 7. TERMS AND CONDITIONS..... 11**

    7.1 GENERAL..... 11

    7.2 PRICING..... 11

        7.2.1 MONETARY VALUES..... 12

        7.2.2 DISCOUNT PERCENTAGE VALUES..... 12

        7.2.3 STANDARD CONFIGURATION..... 12

        7.2.4 REQUIRED PRODUCTS..... 12

        7.2.5 ADDITIONAL PRODUCTS..... 12

    7.3 RESULTING AGREEMENT DOCUMENTS/ORDER OF PRECEDENCE..... 12

    7.4 COMMENCEMENT OF SALES..... 13

    7.5 ESTIMATED SPEND AND QUANTITY..... 13

    7.6 PARTICIPATION IN ONLINE NYS MARKETPLACE..... 13

    7.7 CONTRACTOR WEBSITE..... 13

<b>7.8</b>	<b>PARTICIPATION IN AGGREGATE BUY AGREEMENT.....</b>	<b>14</b>
7.8.1	SUPPLY SHORTAGE PRIORITIZATION .....	14
<b>7.9</b>	<b>TERM FOR AGGREGATE HARDWARE BUY 23-01 AGREEMENT.....</b>	<b>14</b>
7.9.1	SHORT TERM EXTENSION.....	14
<b>7.10</b>	<b>RESELLER PARTICIPATION UNDER AGGREGATE AGREEMENT.....</b>	<b>14</b>
7.10.1	PERMISSIBLE USE OF RESELLERS.....	15
<b>7.11</b>	<b>AGREEMENT PRICE LIST MODIFICATION.....</b>	<b>15</b>
<b>7.12</b>	<b>TYPES OF AGREEMENT MODIFICATIONS. ....</b>	<b>15</b>
7.12.1	LOWERING PRICING OF PRODUCTS. ....	15
7.12.2	ADDING ADDITIONAL PRODUCTS. ....	16
7.12.3	DELETING PRODUCTS FROM THE ADDITIONAL PRODUCTS CATEGORY.....	16
7.12.4	REPLACEMENT OF PRODUCTS.....	16
7.12.5	REPLACEMENT MODEL FOR STANDARD CONFIGURATION. ....	16
<b>7.13</b>	<b>INVOICING.....</b>	<b>17</b>
<b>7.14</b>	<b>PRODUCT DELIVERY. ....</b>	<b>17</b>
<b>7.15</b>	<b>ISSUE ESCALATION PLAN. ....</b>	<b>18</b>
<b>7.16</b>	<b>DISPUTES OR CONTROVERSIES OCCURRING DURING THE TERM OF THE AGGREGATE AGREEMENT – CONTRACTOR AND OGS.....</b>	<b>18</b>
<b>7.17</b>	<b>IMAGING / LOADING SERVICES.....</b>	<b>18</b>
<b>7.18</b>	<b>AGGREGATE HARDWARE BUY 23-01 AGREEMENT - CUSTOMER SERVICE REQUIREMENT.....</b>	<b>18</b>
<b>7.19</b>	<b>SALES REPORTING AND FISCAL AUDITS. ....</b>	<b>19</b>
7.19.1	SALES REPORTING. ....	19
7.19.2	FISCAL AUDITS.....	19
<b>7.20</b>	<b>EPEAT REQUIREMENTS. ....</b>	<b>19</b>
<b>7.21</b>	<b>EXPORT ADMINISTRATION REGULATIONS RESTRICTED BUSINESS ENTITIES.....</b>	<b>20</b>
<b>7.22</b>	<b>REPLACEMENT CONTRACTOR. ....</b>	<b>20</b>
<b>7.23</b>	<b>ADVERTISING.....</b>	<b>20</b>
<b>7.24</b>	<b>INSTRUCTION MANUALS AND ASSOCIATED DOCUMENTATION.....</b>	<b>20</b>
<b>7.25</b>	<b>MWBE GOALS AND REPORTING.....</b>	<b>20</b>
<b>7.26</b>	<b>WARRANTY .....</b>	<b>20</b>
7.26.1	DOCKING STATION WARRANTY .....	21
7.26.2	ADDITIONAL PRODUCT WARRANTIES.....	21
<b>Section 8.</b>	<b>OGS RESERVED RIGHTS.....</b>	<b>21</b>
<b>CONTRACTOR INFORMATION .....</b>	<b>.....</b>	<b>23</b>

## Section 1. GENERAL

OGS will not be held liable for any cost incurred by the Contractor for work performed in the preparation of a response to this Request for Quote (RFQ). Responses to the RFQ must be received by the deadline specified above. Contractor assumes all risks for timely, properly submitted RFQ deliveries. Late RFQ responses may be rejected. The received time of a RFQ response will be determined by OGS.

**This RFQ incorporates the terms and conditions of the Contractor’s OGS Information Technology Umbrella Contract – Manufacturer Based (Statewide) (“Manufacturer Umbrella Contract”) including executed amendments and the additional terms and conditions set forth in this RFQ, its Attachments, and Appendices. The award made from this RFQ will result in the Aggregate Hardware Buy 23-01 Agreement (“Agreement”).**

All purchases resulting from the Agreement shall be in accordance with the terms and conditions of the Contractor’s Manufacturer Umbrella Contract which can be found at: <https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802AppendicesPageCombo.pdf> along with any additional terms and conditions set forth in this RFQ, its Attachments and Appendices.

## Section 2. DEFINITIONS

In addition to the terms defined in Contractor’s Manufacturer Umbrella Contract, Section 2.5, Glossary, the following definitions shall apply in this RFQ 23-01 and any resulting Agreement.

Term	Definition
Additional Products	Products that are not part of the Standard Configuration and are optional for Authorized Users to purchase to enhance the Standard Configuration.
Configuration	Entirety of Standard Configuration, Required Products, and Additional Products
Required Products	Products that are mandatory for Contractors to quote.
Standard Configuration	All components/line items necessary for a functional computing device meeting the minimum specifications identified in <i>Attachment A - Technical Response</i> .
Quote, RFQ Submission	A Contractor’s bid response package.

## Section 3. SCOPE

### 3.1 PURPOSE.

OGS is releasing this Request for Quotes (RFQ) for Aggregate Hardware Buy 23-01 (“RFQ 23-01”). The purpose of RFQ 23-01 is to establish an award for each Configuration as set forth in *Attachment A - Technical Response*. The resulting Agreement(s) will be considered an aggregate buy and all Authorized Users located within NYS (estimated at 7,600) will be able to purchase the Configurations. Upon mutual agreement, this Agreement Pricing may be extended to additional States or governmental jurisdictions, as described in Section 7.8, Participation in Aggregate Buy Agreement.

	Standard Configuration	Brief Description
1	VDI PC	Desktop computer intended for use as a VDI or desktop-as-a-service endpoint
2	Enterprise Desktop - Standard	Desktop computer intended for deployment in an enterprise setting. (high-performance, secure workloads)
3	Enterprise Desktop - vPro	Desktop computer intended for deployment in an enterprise setting, (high-performance, secure workloads) with Intel’s vPro Enterprise for Windows platform enabled
4	Enterprise Desktop - High	Desktop computer intended for deployment in an enterprise setting. (high-performance, secure workloads, high specification for intense use cases)
5	Enterprise Notebook - Standard	Laptop computer intended for deployment in an enterprise setting.

	<b>Standard Configuration</b>	<b>Brief Description</b>
6	Enterprise Notebook - vPro	Laptop computer with Intel's vPro Enterprise for Windows platform enabled intended for deployment in an enterprise setting.
7	Enterprise Notebook - High	Laptop computer intended for deployment in an enterprise setting (high specification for intense use cases).
8	Enterprise All-In-One	Desktop computer integrating the computer case and system components into the monitor.
9	Convertible Tablet	Laptop-tablet hybrid device, with an attached keyboard
10	Workstation PC	High-end workstation class desktop intended for use with GPU intensive applications such as video editing, CAD, and machine learning
11	Chromebook Low	Laptop or tablet computer that runs Chrome OS with a standard 11" screen
12	Chromebook with Touchscreen	Laptop or tablet computer that runs Chrome OS with a touch 11" screen
13	Chromebook with Touchscreen – 14"	Laptop or tablet computer that runs Chrome OS with a 14" touch screen
14	Unbundled Displays	Computer displays available in a range of pre-defined sizes

### 3.2 **BIDDER ELIGIBILITY.**

RFQ 23-01 is only being distributed to Contractors holding an award for Lot 2 – Hardware under the Manufacturer Umbrella Contract ("Contractors"). Quotes under RFQ 23-01 will only be accepted from Lot 2 Contractors on the Manufacturer Umbrella Contract; Resellers are not eligible to respond and any bids from a Reseller will be disqualified.

### 3.3 **PRODUCTS IN SCOPE.**

All Products proposed as part of the Standard Configuration and Products proposed for Required Products, as well as any Additional Products, must be on the Contractor's Manufacturer Umbrella Contract Lot 2 - Hardware price list at the time of the RFQ Submission due date.

## **Section 4. RFQ SUBMISSION REQUIREMENTS**

Electronic media shall be included on Microsoft Windows formatted USB flash drives and should be clearly labeled as set forth below. USB flash drives cannot be password protected or require the installation of software in order to read files. All RFQ Submissions shall be saved in separate unprotected files in Microsoft Office products (Word and Excel) in product releases 2012 or higher.

### 4.1 **ELECTRONIC SUBMISSION.**

Two (2) digital storage devices (USB flash drive), clearly labeled, shall contain the following documents, completed in their entirety:

- *Attachment A – Technical Response*
- *Attachment D – Issue Escalation Plan*
- Manufacturer Information Page (Last page of this Document)

All RFQ Submissions and accompanying documentation shall become the property of the State of New York and shall not be returned.

Contractors are responsible for the accuracy of their RFQ Submissions. All Contractors are directed to take extreme care in developing their RFQ Submission. Prior to submission, Contractors are cautioned to carefully review their RFQ Submission.

### 4.2 **SUBMISSION PACKAGING.**

Each RFQ Submission should be packaged, sealed and submitted to the location stated below. A Contractor is solely responsible for timely delivery of its RFQ Submission prior to the stated deadline for submission.

USB to:

Office of General Services  
Procurement Services  
38<sup>th</sup> Floor, Corning Tower, ESP  
Albany, NY 12242

Attention: IT Procurement  
**[Contractor Name], Aggregate Hardware Buy 23-01**

#### 4.3 **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.

#### 4.4 **BID VALIDITY.**

Quotes and pricing submitted in response to RFQ 23-01 must remain open and valid for at least 120 calendar days from the date that RFQ Submissions are due, unless the time for making an award is extended by mutual consent of OGS and the Contractor. Contractors are encouraged to keep their bids open beyond the 120 calendar day period due to the provisions in Section 7.22, Replacement Contractor.

##### 4.4.1 **BID INQUIRIES**

Quotes must conform to the terms set forth in the RFQ. If Contractor intends to submit a Quote that deviates from the requirements of the RFQ in any way, the proposed deviations should be submitted during the Questions period so that they may be given due consideration prior to the submission of Quotes. Material deviations (including additional, inconsistent, conflicting, or alternative terms) submitted with the Quote may render the Quote non-responsive and may result in rejection of the Quote.

Contractor 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 RFQ or Appendix B (General Specifications) that are of a material and substantive nature. Contractors are reminded to adhere to Manufacturer Umbrella Contract Section 2.61, Additional Contractor Terms and Conditions within an Authorized User Agreement.

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 submissions shall not be considered part of the Quote or resulting Agreement but shall be deemed included for informational or promotional purposes only.

## **Section 5. METHOD OF AWARD**

OGS will separately evaluate and separately make awards for each Configuration. Contractor's may bid one, some, or all configurations. Awards will be made to the responsive and responsible Contractor(s) with the highest Total Financial Score per Configuration that meets all the specified technical requirements. The same Contractor can be awarded multiple Configurations.

### 5.1 **EVALUATION PROCESS.**

The relative weights of each part of the Proposal are as follows:

Technical Response (*Attachment A – Technical Response, Attachment D – Issue Escalation Plan, and Manufacturer Information Page*): Pass/Fail

Financial Response : 100%

Total Financial Score is based on lowest cost and **the points are weighted** as follows:

- Standard Configuration - 50 points
- Required Products
  - Warranty/Services - 15 points
  - Components - 30 points
  - Peripherals - 5 points

The evaluation is a three-stage process set forth below:

#### 5.1.1 STAGE 1 ADMINISTRATIVE REVIEW

The submitted *Attachment A – Technical Response, Attachment D – Issue Escalation Plan, and the Manufacturer Information page* (last page of this document) will be reviewed for completeness. The addition or deletion of worksheets, columns, unlocking the document, rewriting formulas, or similar alterations to any document is prohibited. OGS reserves the right to reject any RFQ Submission or portion(s) thereof determined to have been altered/modified by the Contractor from the original format. Failure to provide fully completed documents may result in rejection of the RFQ Submission without further review.

#### 5.1.2 STAGE 2 TECHNICAL EVALUATION OF CONFIGURATION SUBMISSION

Submitted *Attachment A – Technical Response* will be compared to Standard Configuration and Required Products requirements. All proposed SKUs for proposed products offered in *Attachment A – Technical Response* must be on the Contractor's approved Manufacturer Umbrella Contract price list. Any Configuration that contains a SKU that is not included on the Manufacturer's Umbrella Contract price list may not proceed further in the evaluation process.

#### 5.1.3 STAGE 3 FINANCIAL EVALUATION

Only Contractors whose Standard Configuration specifications and Required Products pass review, as determined by OGS, will proceed to the evaluation of *Attachment C – Financial Response* for those specific Configurations. For those Contractors who have been determined to have passed the Technical Evaluation, their *Attachment A - Technical Response* will be used to create the *Attachment C – Financial Response* and will be provided to the Contractor in order to complete and submit. The proposed pricing on *Attachment C – Financial Response* will then be used in the Financial Evaluation.

## Section 6. EVALUATION COMPONENTS

**All proposed SKUs for Products offered must be on the Contractor's approved Manufacturer Umbrella Contract price list prior to the RFQ Submission due date for RFQ 23-01. OGS will prioritize any Contract modification requests related to this RFQ 23-01, provided that the Contractor indicates in their Contract modification request that the Products are intended for this RFQ 23-01. Contractors are requested to limit such Contract modification requests to only Products needed to respond to this RFQ.** All pricing offered on *Attachment C - Financial Response* must be equal to or better than the pricing offered for that SKU on the Contractor's Manufacturer Umbrella Contract.

### 6.1 MANDATORY OFFERINGS

**FOR EACH CONFIGURATION BID, BIDDERS MUST OFFER ALL COMPONENTS WITHIN THE STANDARD CONFIGURATION AND ALL REQUIRED PRODUCTS .** Failure to complete all required fields in *Attachment A – Technical Response* or *Attachment C – Financial Response* may result in rejection of the RFQ Submission without further review.

### 6.1.1 STANDARD CONFIGURATIONS.

Contractor may bid on one, some, or all 14 Standard Configurations. Specifications can be found in *Attachment A - Technical Response*.

All line-items identified within each of the Standard Configuration(s) must be offered by Contractor(s). Additional Products needed to complete the Standard Configuration may be itemized in Section A of *Attachment A - Technical Response*. Only items that have a mandatory specification will be evaluated in the Technical Evaluation; additional items needed to create the Standard Configuration listed in Section A of *Attachment A - Technical Response* will be reviewed only to determine if the items are included in Lot 2 of the Contractor's Manufacturer Umbrella Contract price list. Any listed items not included in Lot 2 of the Contractor's Manufacturer Umbrella Contract price list will be removed from the RFQ Submission.

*Attachment A – Technical Response* must include a Product description of any remote diagnosis and/or support service arrangements if offered/provided with the Product.

Contractors are encouraged to aggressively discount their pricing for the Standard Configurations. Contractors should provide a discount off the Net NYS Contract Price from the Manufacturer Umbrella Contract price list. Contractors shall provide itemized pricing on all Products offered in the Standard Configurations. In no event may quoted pricing exceed the Net NYS Contract Price on the Manufacturer's Umbrella Contract.

### 6.1.2 REQUIRED PRODUCTS.

For evaluation purposes, specific Products have been designated as Required Products. A Product from each Required Product category has been chosen by OGS to establish a level playing field among Contractors for each Configuration. All Required Products for each Standard Configuration can be found in Section B of *Attachment A - Technical Response*. Required Product categories are defined below:

1. Warranty & Services includes Products such as multi-year Warranty, agency specific factory imaging, asset tagging, disk retention and accidental damage coverage.
2. Components include Products such as replacements or additional components to the Standard Configuration, e.g., CPU, additional memory, internal optical drives, and operating system. Component upgrades and downgrades may be executed by increment. When an upgrade is done by increment, it must be specified exactly how the upgrade will be provided. For example, if an upgrade to RAM from 8GB to 16GB is offered, please specify how the upgrade capacity is met, such as 1x16GB memory module or 2x8GB memory modules.
3. Peripherals include products such as a cable, external optical drive, docking station, wireless keyboard, and/or mouse.

The Net NYS Contract Price provided on *Attachment A – Technical Response* for a Required Product must represent the complete price of the Product. Recording the price of the Product as the difference in price from a line-item in the Standard Configuration is prohibited.

For Required Products, Contractors must bid a discount percentage on the item that has been selected for each category (e.g., a 3-button mouse for Peripherals).

## 6.2 OPTIONAL PRODUCTS.

### 6.2.1 ADDITIONAL PRODUCTS.

At the time of bid submission, the Contractor may choose to include Additional Products under Section C of *Attachment A - Technical Response*. External displays/monitors may not be offered as an Additional Product for any Configuration.

Pricing for any Additional Products will *not* be factored into the evaluation, but submission of items for review at the time of bid will facilitate the availability of Additional Products for Authorized Users as part of a Configuration

at time of award. All Additional Products proposed by a Contractor on *Attachment A – Technical Response* and *Attachment C – Financial Response* must first be on Contractor's approved Manufacturer Umbrella Contract price list. OGS reserves the right to decline to include any proposed Additional Product on any resulting awarded Configuration price list if not included on Contractor's approved Manufacturer Umbrella Contract price list or if the proposed Additional Product is deemed to be out of scope for the Configuration by OGS.

OGS reserves the right to decline to include any proposed Additional Products on any resulting awarded Configuration price list that are deemed to require excess time or clarification during the evaluation of the proposal.

### 6.3 **DISCOUNT PERCENTAGE.**

#### 6.3.1 STANDARD CONFIGURATION DISCOUNT.

Contractors are encouraged to aggressively discount their pricing for the Standard Configurations. Contractors shall provide itemized pricing on all Products offered in the Standard Configurations. In no event may quoted pricing exceed the Net NYS Contract Price on the Manufacturer's Umbrella Contract price list. The awarded Standard Configuration price and its component prices will remain equal to the Agreement awarded price for the term of the Agreement(s) and any extensions, though Contractor may offer lower pricing at any time.

#### 6.3.2 REQUIRED PRODUCTS DISCOUNT.

Contractors are required to provide discount percentages that will apply to each of the three (3) Required Products. The discount that is bid on the single Product shall apply to all Additional Products in the same Required Product category, as described in Section 7.2.5, Additional Products. Contractors are encouraged to aggressively discount their pricing for their Required Products, as the pricing will be factored in the Total Financial Score. The discount percentages may be increased, but not decreased during the term of any resulting Agreement and any extensions.

### 6.4 **DEBRIEFING.**

Pursuant to Section 163(9)(c) 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 RFQ.

### 6.5 **DISPUTE RESOLUTION.**

Should a Contractor wish to file a dispute regarding this RFQ 23-01, the dispute will be considered and decided by OGS in accordance with Section 64(II)(B) of Appendix B to the Contractor's Manufacturer Umbrella Contract.

## **Section 7. TERMS AND CONDITIONS**

The following terms and conditions shall apply to the Contractor:

### 7.1 **GENERAL.**

The terms and conditions of the Contractor's Manufacturer Umbrella Contract including any Amendments and the additional terms and conditions set forth in this RFQ 23-01, Section 7, Terms and Conditions govern any resulting award under RFQ 23-01. This RFQ is referred to herein as either "RFQ 23-01" or "Aggregate Hardware Buy 23-01."

### 7.2 **PRICING.**

The approved Configuration price lists, *Attachment 1 – Pricing Pages*, for any resulting Agreement will be posted on the OGS Procurement Services website. Only Products listed on such price lists shall be sold under the Agreement. The Agreement item number aggregate buy price is a Not-To-Exceed Price, in accordance with the Contractor's Manufacturer Umbrella Contract, Section 2.5, Glossary, "Not-to-Exceed (NTE) Price."

#### 7.2.1 MONETARY VALUES.

All monetary values shall be in U.S. Dollar amounts and will be two decimal points (for example: \$1.12).

#### 7.2.2 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%). OGS will round any discount percentage to the nearest hundredth if necessary. A Discount Percentage value cannot be expressed as a range (for example: 10%-20%, or “varies”).

#### 7.2.3 STANDARD CONFIGURATION.

Contractors shall provide itemized pricing on all Products offered in the Standard Configurations. In no event may quoted pricing exceed the Net NYS Contract Price on the Contractor’s Manufacturer Umbrella Contract. The awarded Standard Configuration price and its component prices will remain equal to the Agreement awarded price for the term of the Agreement(s) and any extensions, though Contractor may offer lower pricing at any time on an individual transaction.

#### 7.2.4 REQUIRED PRODUCTS.

Products that were bid as Required Products by the Contractor will be available under the Additional Product category on the awarded Configuration price list and are subject to the discount percentage bid by the Contractor as part of the RFQ Submission. The Required Product price awarded shall remain equal to or better than the originally awarded price throughout the life of any resulting Agreement, though Contractor may offer lower pricing at any time on an individual transaction. Required Product discount percentages may be increased, but not decreased during the term of any resulting Agreement and any extensions.

#### 7.2.5 ADDITIONAL PRODUCTS.

Contractors shall provide the same awarded discount percentages that applied to the three (3) Required Product categories (Warranty and Services, Components, and Peripherals), to the Additional Products in their respective categories. For all Additional Products, the discount percentages will apply to the Net NYS Contract Price from the Manufacturer Umbrella Contract price list. At time of award, these discount percentages will apply to the original Additional Products bid and any future Additional Products added within the scope of the Agreement. Only Additional Products approved by OGS for inclusion on the awarded Configuration price list may be offered under any resulting Agreement. Discount percentages may be increased, but not decreased during the term of the Agreement and any extensions.

Category Discount percentages are only applicable for products listed on the awarded Agreement Configuration price lists. Products that are on the Contractor’s Manufacturer Umbrella price list shall not be offered with the Category Discount under any resulting Agreement unless first being submitted to OGS for approval via *Appendix 3 - Pricing Modification Form*.

### 7.3 RESULTING AGREEMENT DOCUMENTS/ORDER OF PRECEDENCE.

Any resulting Aggregate Hardware Buy 23-01 Agreement will be comprised of the following documents. Any conflicts or inconsistencies among such documents shall be resolved by giving precedence to the documents in the following order:

1. Aggregate Hardware Buy 23-01 Agreement TERMS AND CONDITIONS;
2. Attachment 1 - Pricing Pages, which consists of the price list for each awarded Configuration as approved by OGS from time to time during the term of the resulting Agreement;
3. Attachment 2 - Issue Escalation Plan;
4. Attachment 3 - Sales Report Form
5. Attachment 4 - Agreement Price List Modification Procedures
6. Attachment 5 – Pricing Modification Form

7. Attachment 6 - How to Use. OGS reserves the right to unilaterally make revisions, changes and/or updates to this attachment without processing a formal amendment and/or modification to the resulting Agreement;
8. Attachment 7 - Contractor Information;
9. RFQ 23-01 Request for Quote 23-01, Aggregate Hardware Buy
  - RFQ 23-01 Aggregate Hardware Buy
  - Attachment A – Technical Response
  - Attachment B – Contractor Questions and Comments
  - Attachment C – Financial Response
  - Attachment D – Issue Escalation Plan
  - Appendix 1 – Aggregate Hardware Buy - Sales Report Form
  - Appendix 2 – Agreement Price List Modification Procedures
  - Appendix 3 – Pricing Modification Form
  - Appendix 4 – How to Prepare a Successful Quote
  - Appendix 5 – Aggregate Hardware Buy - Delayed Delivery Report
  - Appendix 6 – Responses to Inquiries Released (3/15/2023)

#### **7.4 COMMENCEMENT OF SALES.**

The Contractor can commence sales from any resulting Agreement only upon OGS acceptance and posting of the Agreement and awarded Configurations with the Contractor's contact information on the OGS website.

#### **7.5 ESTIMATED SPEND AND QUANTITY.**

The estimated dollar value of the aggregated award of the 14 Standard Configurations in this RFQ 23-01, based on historical purchases under previous awards, is approximately \$50 million. Certain factors including but not limited to the budget structure, the COVID-19 pandemic, and global industry supply chain have impacted the marketplace and estimated volumes. However, the Agreements resulting from this RFQ will be Indefinite Delivery, Indefinite Quantity (IDIQ) awards. Numerous factors could cause the actual volume of Product purchased to vary substantially from the above estimate. Such factors include, but are not limited to, the following:

- There is no guarantee of volume to be purchased
- There is no guarantee of dollar value to be purchased
- There is no guarantee that demand will continue in any manner consistent with previous purchases or the above estimates

In OGS' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting a Quote, Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of any resulting Agreement could vary substantially from the estimates provided above. Contractor must furnish all quantities actually ordered by Authorized Users at or below the prices in the Aggregate Hardware Buy 23-01 Agreement.

#### **7.6 PARTICIPATION IN ONLINE NYS MARKETPLACE.**

Contractors that are awarded a Configuration under the Aggregate Agreement should provide a "hosted" or "punch-out" catalog that is available to Authorized Users via an online NYS marketplace, should one become available for technology products in the future.

#### **7.7 CONTRACTOR WEBSITE.**

If a Contractor maintains its own dedicated Agreement website, they are restricted to showing literature only directed toward the models currently on the approved OGS Aggregate Hardware Buy 23-01 Agreement. The Contractor's website shall not have a web-based ordering system with the capability of receiving orders from Authorized Users. Contractor may provide a "hosted" or "punch-out" catalog that is available to Authorized Users via an online NYS marketplace. Each Contractor's website link will be listed under the Contractor information posted on the OGS website. The Contractor's website will be the responsibility of the Contractor to maintain and keep updated. This website must remain

accurate and available throughout the duration of any resulting Agreement. Determination of compliance will be at the sole discretion of OGS. The State reserves the right to request demonstrations of the Contractor's website. The only offerings allowed within the Contractor's on-line configurator will be those within the OGS approved Configuration requirements (Standard Configuration, Required Products and Additional Products). Contractor's website shall comply with Contractor's Manufacturer Umbrella Contract section titled Accessibility of Web Based Information and Applications Policy Language.

Any conflicts between the OGS-posted price lists and items on a Contractor's dedicated website shall be resolved in favor of the OGS-posted price list at time of the sale. Repeated conflicts between the two websites may, at OGS' discretion, lead to the revoking of the ability of the Contractor to host their own dedicated website.

## 7.8 PARTICIPATION IN AGGREGATE BUY AGREEMENT

Any resulting Agreement pricing may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resulting Agreement 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. In the event that any resulting Agreement is so extended, such other authorized entities shall be solely responsible for liability and performance under any resulting Agreement and Contractor agrees to hold them solely responsible for such liability and performance.

### 7.8.1 SUPPLY SHORTAGE PRIORITIZATION

In the event of a supply shortage, a Contractor must make all reasonable efforts to prioritize orders placed under any resulting originating Agreement for New York State Authorized Users, over any orders made by extension of any resulting Agreement to customers outside of New York State Authorized Users. In addition, in the event that the Contractor believes it necessary to prioritize orders made by extension of any resulting Agreement to customers outside of New York State Authorized Users, over orders placed under any resulting originating Agreement for New York State Authorized Users, the Contractor must contact OGS for approval prior to fulfilling such orders.

## 7.9 TERM FOR AGGREGATE HARDWARE BUY 23-01 AGREEMENT.

The term of any resulting Agreement shall be one (1) year. The term shall not commence until OGS execution, final approval by the Office of the State Comptroller (OSC), and posting of the final executed documents to the OGS Procurement Services website. OGS reserves the right, at its sole discretion, to extend all or some Configurations of the Agreement for a period up to an additional one (1) year upon written notice to the Contractor.

### 7.9.1 SHORT TERM EXTENSION.

OGS reserves the right to seek an additional short-term extension for the Agreement in accordance with Manufacturer Umbrella Contract, Section 2.18, Short Term Extension:

In the event a replacement Agreement has not been issued, any Agreement let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to three (3) months upon notice to the Contractor with the same terms and conditions as the original Agreement including, but not limited to, prices and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to six (6) months in lieu of three (3) months. However, this extension terminates should the replacement Agreement be issued in the interim.

## 7.10 RESELLER PARTICIPATION UNDER AGGREGATE AGREEMENT.

Contractors are permitted to use Resellers in the fulfillment of orders under any resulting Agreement. Contractors must receive payment from Authorized Users directly and must invoice Authorized Users directly. **OGS approved Resellers and Sales Agents are not authorized to receive Purchase Orders from Authorized Users or to invoice Authorized Users.** Contractors remain wholly and solely responsible for the actions of the Resellers acting on their behalf as part of

the aggregate buy, as well as the performance of all Products, and conformity with the Manufacturer Umbrella Contract and any Agreement resulting from this RFQ. All services provided by the Resellers must be billed and invoiced through the Contractor and fall within the scope of the Agreement.

#### 7.10.1 PERMISSIBLE USE OF RESELLERS.

Contractors are allowed to utilize authorized Resellers for the following purposes, including but not limited to:

- The fulfillment of orders;
- Coordination of deliveries;
- Installation of Products purchased under any resulting Aggregate Agreement; or
- Other functions that fall within the scope of the purchase by the Authorized User.

#### 7.11 AGREEMENT PRICE LIST MODIFICATION.

The Contractor is authorized to provide the Standard Configuration(s), Required Products, and Additional Products initially awarded in the Agreement. Products included under the Agreement can be modified through the processes described in *RFQ 23-01, Appendix 2 – Agreement Price List Modification Procedures* and utilizing both the Agreement Modification Form (last 2 pages of *RFQ 23-01, Appendix 2 – Agreement Price List Modification Procedures*) and *RFQ 23-01, Appendix 3 - Pricing Modification Form*.

In order to expedite processing of an Agreement modification, only one Agreement modification request can be submitted at a time. Additional requests may be submitted once the Contractor has received approval of a previously submitted request. The Contractor must request the most current approved *Appendix 3 – Pricing Modification Form* from the OGS Contract Manager in order to begin the modification process. This will help to ensure there will not be an overlap or discrepancy with the approved Configuration price list. The Contractor must specify the Configuration in their request.

The Contractor shall submit the Product and price information for the Agreement modification electronically via email as described in *RFQ 23-01, Appendix 2 – Agreement Price List Modification Procedures* and *RFQ 23-01, Appendix 3 – Pricing Modification Form* (and in hardcopy if requested by OGS) to:

Submit electronically via e-mail:

[OGS.sm.PS.AggregateBuy@ogs.ny.gov](mailto:OGS.sm.PS.AggregateBuy@ogs.ny.gov)

Subject Line: **Aggregate Hardware Buy 23-01 – [Contractor Name] Modification**

#### 7.12 TYPES OF AGREEMENT MODIFICATIONS.

Agreement modifications may include the following:

- Lowering pricing of Products;
- Adding Additional Products;
- Deleting Products from the Additional Products category;
- Replacement of Products; and
- Replacement Model for Standard Configuration.

##### 7.12.1 LOWERING PRICING OF PRODUCTS.

All Product pricing on the Contractor's Agreement price list can be lowered at any time throughout the term of any resulting Agreement and any extensions.

Agreement pricing for a Product can be lowered without lowering the Product price on the Contractor's Manufacturer Umbrella price list. If Product pricing on the Contractor's Manufacturer Umbrella price list decreases, a modification must be made to the Agreement price list to reflect the price decreases.

If a Contractor wishes to lower the price for a component in the Standard Configuration, the Contractor must state the new Product pricing in the Proposed Aggregate Agreement Price column on the *RFQ 23-01, Appendix 3 – Pricing Modification Form*. The proposed lower price will become the new Agreement price for the component.

If a Contractor wishes to lower the price of a Required Product or Additional Product, the Contractor must state the new Product pricing in the Proposed Aggregate Agreement Price column on the *RFQ 23-01, Appendix 3 –*

*Pricing Modification Form.* The proposed lower price minus the percentage discount will become the new Agreement price for the Required Product or Additional Product upon OGS approval.

#### 7.12.2 ADDING ADDITIONAL PRODUCTS.

After Agreement award, in order for a Product to be added to the Additional Products pricing category under the Agreement, a Product must first be approved on the Contractor's Manufacturer Umbrella Contract in accordance with the Contractor's Manufacturer Umbrella Contract *Appendix C – Contract Modification Procedure.*

Once a Product has been successfully added to the Contractor's OGS approved Manufacturer Umbrella Contract price list, the same Product can then be submitted for an add request under the Agreement. The new Additional Product price, as entered in the Proposed Aggregate Agreement Price column on the *RFQ 23-01, Appendix 3 – Pricing Modification Form*, must be equal to or less than the Net NYS Contract price for the Product as listed on the Contractor's Manufacturer Umbrella Contract price list. The discount percentage described in 7.2.5, Additional Products, will be applied to the proposed Additional Product price resulting in the Agreement price for the Additional Product.

#### 7.12.3 DELETING PRODUCTS FROM THE ADDITIONAL PRODUCTS CATEGORY.

Additional Products can only be removed from the Agreement if the Products are shown to OGS' satisfaction to be incompatible with the Standard Configurations, unavailable, or at End of Life (EOL). The reason an Additional Product is being removed from the Agreement must be provided in writing to the Agreement Contract Manager(s). OGS must receive no less than 60 calendar days notice for EOL Additional Products. All EOL Additional Products purchased by Authorized Users must remain under warranty or be replaceable at no additional charge to the Authorized Users.

#### 7.12.4 REPLACEMENT OF PRODUCTS.

Replacements are defined as substitute Products which take the place of a previously awarded Product included in the Standard Configurations and/or Required Products, due to the awarded Product becoming incompatible with the Standard Configuration, unavailable or at Product EOL. The reason a Replacement is needed must be provided in writing to the Agreement Contract Manager(s) for approval.

OGS must receive no less than 60 calendar days notice from Contractor for EOL Products, in order for OGS to process modifications for Product substitutions in a timely manner. All EOL Replacement Products purchased by Authorized Users must remain under warranty or be replaceable at no additional charge to the Authorized Users.

If a Product in the awarded Standard Configuration and/or Required Products becomes incompatible with the Standard Configuration, unavailable or at Product EOL, a replacement Product of an equal or greater specification than the original Product offered in the Standard Configuration and/or Required Products must first be submitted for OGS approval by completing the modification process outlined in *Appendix 2 – Agreement Price List Modification Procedures.* The replacement Product must be offered on the Agreement price list at the same or lower Agreement pricing as the Product it is replacing. Replacement components must be compatible with Agreement peripherals or the Contractor will be responsible for replacement of both the component and the peripheral. OGS will be solely responsible for determining if the replacement Product meets or exceeds the original Product offered in the Standard Configurations and/or Required Products.

#### 7.12.5 REPLACEMENT MODEL FOR STANDARD CONFIGURATION.

The Contractor will be able to update the entire Standard Configuration to a new model as long as acceptable proof that the Product has reached EOL or has become unavailable for purchase is provided in writing to the Agreement Contract Manager(s). The new model must meet or exceed the specifications of the original offered Standard Configuration in each of the component areas listed on *Attachment C – Financial Response.*

OGS must receive notification no less than 60 calendar days prior to the EOL of an awarded Standard Configuration model or the date that the awarded Standard Configuration becomes unavailable for purchase. All EOL Standard Configurations purchased by Authorized Users must remain under warranty or be replaceable at no additional charge to the Authorized Users.

No less than 30 calendar days prior to the EOL of the awarded Standard Configuration or the date that the awarded Standard Configuration has become unavailable for purchase by Authorized Users, a substitute Standard Configuration with specifications that meet or exceed the specifications of the original offered Standard Configuration must be submitted for OGS approval by completing the modification process outlined in *Appendix 2 – Agreement Price List Modification Procedures*. The replacement model price shall not exceed the original awarded amount for the Standard Configuration and its components; provided, however, if the replacement model costs less than the original Standard Configuration, the price shall be reduced to the lower cost. OGS' determination that a replacement system meets or exceeds the original offered Standard Configuration will be final and binding on the Contractor.

During the term of the Agreement, should the Contractor: fail to provide acceptable notice of EOL Standard Configuration(s); fail to submit a replacement Standard Configuration via the process outlined in *Appendix 2 – Agreement Price List Modification Procedures* in the timeframe referenced above; or is unable to provide a replacement model with specifications that meet or exceed the specifications of the original awarded Configuration, OGS reserves the right to award the Configuration to the Contractor with the next lowest bid from RFQ 23-01 for that Configuration that is willing to accept the Configuration award without rebidding. Under no circumstances will the new Contractor awarded be permitted to increase its component pricing for the Standard Configuration components or Required Products or decrease the percentage discounts on Required Product categories that were originally Bid. Should the Standard Configuration bid at the time of RFQ 23-01 be obsolete or unavailable, a substitute Standard Configuration with specifications that meet or exceed the specifications of the original offered Standard Configuration may be proposed.

### 7.13 **INVOICING.**

All invoices shall at a minimum, include the items listed below and any additional information identified in the Authorized User Purchase Order and any resulting Authorized User Agreement:

- Manufacturer Umbrella Contract Number: PMXXXXX
- RFQ Number: 23-01
- RFQ Title: Aggregate Hardware Buy 23-01
- Contractor Name
- NYS Vendor ID
- Manufacturer Part Number (SKU)
- Product Name
- Product Description
- Quantity
- Aggregate Buy Price for each Product SKU
- Specific designation of special price(s) which may be better than the Agreement price
- Invoice Total
- Standard Configuration Name

*Agreement prices are Not-To-Exceed prices. Off-Contract sales are prohibited.*

### 7.14 **PRODUCT DELIVERY.**

The Contractor shall deliver the units ordered by an Authorized User within 45 calendar days of receipt of a Purchase Order, approved by OSC if applicable, unless either the Authorized User or OGS grants an extension of time as provided below.

If upon receipt of a Purchase Order, the Contractor determines it cannot meet the 45 calendar day delivery period, the Contractor must submit a written request to the Authorized User to extend the required Product delivery period as per the terms of Appendix B, Section 48. The Authorized User shall respond in writing to the Contractor either declining the request or specifying the revised delivery period.

The product delivery period shall start at the time of receipt of a Purchase Order and shall conclude with delivery to the Authorized User. This timeframe shall include all work to be done by a Contractor and/or its Resellers.

The Contractor must provide a Purchase Order receipt notification to the Authorized User within five (5) calendar days of receipt of a Purchase Order. An Advanced Shipping Notice must be provided to Authorized Users upon request fourteen (14) calendar days prior to delivery. Such notification must include Purchase Order number, quantity, itemized SKUs, description, price, purchase date, received date, and warranty start date. The Contractor shall notify the Authorized User of any delays and be the main point of contact for all communications, even if using a Reseller to fulfill the order. Contractor shall submit a monthly report to OGS of any delays in delivery by using *Appendix 5 – Aggregate Hardware Buy - Delayed Delivery Report*. If OGS becomes aware of multiple incidents of delays in delivery, OGS reserves the right to enforce any of the remedies available to us through the terms of this Agreement, including our rights to terminate the Agreement in whole or in part, and award to another contractor as per the terms of Section 7.22 Replacement Contractor.

#### **7.15 ISSUE ESCALATION PLAN.**

Contractor shall submit an Issue Escalation Plan. Space has been provided in *Attachment D – Issue Escalation Plan* for entry of the plan and additional information may be provided in a separate, unlocked Microsoft Word document. Please use the *Attachment D - Issue Escalation Plan* to provide the necessary points of contact for each type of issue listed.

As a condition of award, OGS may require the tentative awardee(s) to modify the “Issue Escalation Plan” document(s) submitted with the Quotes, as needed, to adhere to the terms and conditions of any resulting Agreement or Contractor's processes or as otherwise determined by OGS. OGS may also require Contractor to modify this plan at any time during the term of the resulting Agreement. The Issue Escalation Plan as approved by OGS at the time of Agreement award shall become a part of the resulting Agreement and Contractor must adhere to such plan during the term of the resulting Agreement.

#### **7.16 DISPUTES OR CONTROVERSIES OCCURRING DURING THE TERM OF THE AGGREGATE AGREEMENT – CONTRACTOR AND OGS**

Disputes between the Contractor and OGS regarding the Aggregate Hardware Buy 23-01 Agreement will be handled pursuant to Contractor's Manufacturer Umbrella Contract, Appendix B, sections 64(II)(A) and 64(II)(B). Informal disputes between other Authorized Users and the Contractor will be handled under Contractor's Manufacturer Umbrella Contract, Appendix B sections 64(II)(A), and formal disputes between other Authorized Users and Contractor shall be handled under the Authorized User's dispute procedures.

#### **7.17 IMAGING / LOADING SERVICES.**

The Contractor is responsible for adding a SKU for Authorized User specific standard software imaging under Additional Products on *Attachment A – Technical Response* if it is not already included as part of the Standard Configuration or its Required Products. The Contractor is therefore required to install a factory Authorized User specific standard software image on each computing device purchased, when such image is provided by the Authorized User.

If an Authorized User requires customized factory imaging, the Contractor shall provide a test unit with the customized image within five (5) business days of receiving the Authorized User's image. The Contractor must deliver the remainder of the imaged units ordered by the Authorized User, within 30 calendar days from the date of Authorized User's written approval of the test unit. Notwithstanding the foregoing in this clause the delivery date shall not be required to be less than 45 days from date of Purchase Order.

#### **7.18 AGGREGATE HARDWARE BUY 23-01 AGREEMENT - CUSTOMER SERVICE REQUIREMENT.**

The Contractor shall provide a sufficient number of customer service employees who are knowledgeable and can effectively respond to any Authorized User issues related to any resulting Agreement. Inquiries shall be responded to within twenty-four (24) hours.

The Contractor shall ensure that their sales staff sell only approved Agreement Products to Authorized Users at the current Agreement 23-01 price. The Contractor shall make all sales staff aware of this responsibility. Sales staff shall not quote or sell Products not available on the approved Agreement price lists. Products must be added to the approved Agreement price lists via the *Appendix 2 – Agreement Price List Modification Procedures*.

## 7.19 SALES REPORTING AND FISCAL AUDITS.

### 7.19.1 SALES REPORTING.

The Contractor shall provide OGS with accurate and timely sales reports containing detailed information of all purchases by State and non-state Authorized Users, political subdivisions and other authorized entities within other State or governmental jurisdictions, made pursuant to any resulting Agreement. Sales under any resulting Agreement must be submitted in accordance with Section 2.23 of the Manufacturer Umbrella Contract, using Appendix I – Report of Contract Sales. Sales reports for any resulting Agreement must also be submitted to [OGS.sm.PS.AggregateBuy@ogs.ny.gov](mailto:OGS.sm.PS.AggregateBuy@ogs.ny.gov) utilizing the format in *Appendix 1 – Aggregate Hardware Buy - Sales Report Form* attached hereto and must be submitted separately from the Contractor’s Manufacturer Umbrella Contract sales documentation.

Sales reports are due to OGS one (1) month directly following the end of each quarter. The quarters for each sales report submission are as follows: January - March; April - June; July - September; October - December. The Contractor must send OGS sales reports for the duration of any resulting Agreement and any extensions.

Contractor must submit, along with *Appendix 1 – Aggregate Hardware Buy - Sales Report Form*, a report of any and all deliveries that fall outside the 45-day period stated in Section 7.14, Product Delivery.

Failure to submit accurate reports on a timely basis may result in a responsibility hearing, and possible termination of this Agreement in whole or in part, after which OGS reserves the right to award to another contractor as per the terms of Section 7.22 Replacement Contractor.

**If requested by OGS, Contractor shall provide backup documentation of all quarterly sales reports to support a sales and fiscal audit. These records will be made available on request, no more than 15 business days after request, in a searchable electronic format as specified by OGS.**

Contractors shall provide sales reports specific to the Agreement via email to:

[OGS.sm.PS.AggregateBuy@ogs.ny.gov](mailto:OGS.sm.PS.AggregateBuy@ogs.ny.gov)

Subject Line: **Aggregate Hardware Buy 23-01 – Sales Report**

### 7.19.2 FISCAL AUDITS.

OGS reserves the right to audit the accuracy of the sales reports collected under Award 22802. Audits shall be conducted during regular business hours, upon not less than 15 business days prior written notice. Repeated errors on subsequent audits may result in a responsibility hearing in relation to Contractor’s Manufacturer Umbrella Contract and may lead to termination of any resulting Agreement in whole or in part, after which OGS reserves the right to award to another contractor as per the terms of Section 7.22 Replacement Contractor.

In addition, OGS reserves the right to review sales reports and other such documentation for accuracy of all required reporting documents for both NYS Authorized Users and other parties using any resulting Agreement.

## 7.20 EPEAT REQUIREMENTS.

Desktops, laptops, and computer monitors provided under any resulting Agreement are required to have achieved a minimum certification of EPEAT Gold at the time of award with the exception of the three Chromebook Configurations (Chromebook Low, Chromebook with Touchscreen and Chromebook with Touchscreen – 14”). Chromebook Standard Configurations will be required to meet a minimum certification of EPEAT Silver at the time of award. EPEAT is an ecolabel designed to help large volume purchasers evaluate, compare, and select electronic products based upon their environmental attributes as specified in the consensus-based IEEE Standard for the Environmental Assessment of Personal Computer Products (IEEE 1680.1).

Contractor is required to provide quarterly reporting on the number of EPEAT registered products purchased under any resulting Agreement. The report is part of the sales report. For each base unit sold, EPEAT Registration Status (i.e.

Bronze, Silver, Gold or Unregistered) must be provided. The information must be reported in aggregate in a matrix providing the following data: Desktop, Notebook, Display Unit.

The database of all products that currently meet EPEAT criteria are viewable at [www.greenelectronicscouncil.org](http://www.greenelectronicscouncil.org).

#### 7.21 EXPORT ADMINISTRATION REGULATIONS RESTRICTED BUSINESS ENTITIES.

OGS will not accept a bid from a Contractor, or a Contractor Product that contains Products made by an entity on any of the lists maintained by the US Customs and Border Patrol at the link set out below.

If Contractor cannot deliver a Product because either the Contractor or a supplier to the Contractor is listed on any of these lists, the Contractor must remove the Product from the Contractor's Agreement price list. Additionally, for any order that cannot be fulfilled as a result of such listing, the Authorized User, at their discretion, may either terminate the order or allow Contractor to fulfill the order with a replacement product that either meets or exceeds the applicable Product Specifications. The replacement Product must be added to the Agreement price list via *Appendix 3 - Pricing Modification Form*.

<https://www.cbp.gov/trade/programs-administration/forced-labor/withhold-release-orders-and-findings>

#### 7.22 REPLACEMENT CONTRACTOR.

In the event that OGS terminates any resulting Agreement or any awarded Configuration resulting from such Agreement, OGS reserves the right to then make an award to the Contractor with the next highest Total Financial Score from RFQ 23-01 that is willing to accept an Agreement or Configuration award without rebidding. Under no circumstances will the new awardee be permitted to increase its component prices for Standard Configurations, the prices of the Required Products or decrease the percentage discounts on Additional Products that were originally bid.

#### 7.23 ADVERTISING.

Contractor is reminded of the requirements set forth in the Contractor's Manufacturer Umbrella Contract, *Appendix B, Section 13, Contract Publicity*, incorporated as part of the Contract, that any Contractor's press or media releases, advertisements, or promotional literature, regardless of the medium, referring to an Contractor must be reviewed and approved by OGS prior to issuance. The Contractor also cannot use, for any purpose, the New York State of Opportunity registered trademark or the State coat of arms without prior approval from the State.

#### 7.24 INSTRUCTION MANUALS AND ASSOCIATED DOCUMENTATION.

Instruction Manuals and Associated Documentation shall be provided in accordance with Manufacturer Umbrella Contract Section 2.21, Instruction Manuals and Associated Documentation.

#### 7.25 MWBE GOALS AND REPORTING.

The Contractor is reminded of their responsibility under Contractor's Manufacturer Umbrella Contract, Section 2.68, Contractor Requirements and Procedures for Participation By New York State Certified Minority- And Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women. For reporting purposes, Contractor must accurately track and report the effort of the minority or women owned businesses performing such duties as would be covered under the scope of any resulting Agreement.

#### 7.26 WARRANTY

The following terms and conditions shall apply to all warranties under this RFQ:

- If a unit becomes inoperable within the warranty window and cannot be repaired, a brand new unit shall be provided at no charge. Contractor shall not provide refurbished or remanufactured equipment as they are not allowed under this Aggregate Hardware Buy 23-01. The data from the unit being replaced shall be transferred to a new replacement unit at no charge in the event that the data is accessible and non-corrupted. The data storage device or, if not removable, the entire unit, must remain in the custody and

ownership of the Authorized User after the Contractor has completed the repair or replacement of the unit.

- Connections to the Authorized User's networks must be performed in a manner prescribed by an Authorized User to preserve the integrity of the Authorized User's network, confidentiality and integrity of information transmitted over that Authorized User's network, and the availability of the network. Access for remote diagnosis must be approved and supervised by the Authorized User's technical representative for each specific incident. Contractor should review NYS ITS Technology Standard NYS-S14-010, Remote Access.

#### 7.26.1 DOCKING STATION WARRANTY

The Contractor is responsible for providing a warranty SKU(s) for docking stations listed as a Required Product or Additional Product on the price lists. The warranty SKU(s) must fully cover hardware, software, and drivers. The warranty SKU(s) for docking stations must provide complete support, including break/fix, for all compatible operating systems.

#### 7.26.2 ADDITIONAL PRODUCT WARRANTIES

The Contractor is responsible for adding SKUs for additional warranty year options (e.g. 3 year, 4 year, 5 year) under Additional Products on *Attachment A – Technical Response*.

## Section 8. OGS RESERVED RIGHTS

### OGS reserves the right to:

1. Reject any or all RFQ Submissions received in response to the RFQ;
2. Withdraw the RFQ any time, in whole or in part, in its sole discretion;
3. Award all, any number, or none of the 14 Product Configurations;
4. Disqualify any Contractor whose Quote fails to conform to the requirements of the RFQ;
5. Seek clarifications and revisions of the RFQ Submission;
6. Prior to the RFQ Submission Date for *Attachment C – Financial Response*, amend the RFQ to correct errors or oversights, or to supply additional information, as it becomes available;
7. Prior to RFQ Submission Date for *Attachment C – Financial Response*, direct Contractors to submit RFQ response modifications addressing subsequent amendments;
8. Change any of the schedule dates with notification via email to all applicable Manufacturer Umbrella Contractors;
9. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Contractors;
10. Waive any requirements that are not material;
11. Negotiate with a Contractor responding to this RFQ within the RFQ requirements to serve the best interests of the State. This includes requesting clarifications of any part or all of Contractor's RFQ Submission;
12. 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 Contractor's RFQ Submission and/or to determine a Contractor's compliance with the requirements of the RFQ;

13. Require a Contractor to complete any missing information required by *Attachment A – Technical Response* and *Attachment C – Financial Response*.
14. Unilaterally make non-material revisions, changes and/or updates to any templates and/or Attachments to the Aggregate Hardware Buy 23-01 Agreement without processing a formal amendment and/or modification;
15. The State reserves the right to exclude any price lists or individual Products and services that do not fall within the scope of the RFQ;
16. Upon discovery of non-material completeness or conformance issues with a Contractor's RFQ Submission, contact the Contractor to attempt to cure the issue prior to completion of the evaluation of the Contractor's RFQ Submission;
17. Reject any Bid containing proposed prices that are unrealistically low as determined by OGS;
18. Modify the Products identified in *Attachment A – Technical Response* prior to the prequalified Contractors' submittal of *Attachment C – Financial Response*.
19. Modify a specification within the Standard Configuration or Required Product categories in *Attachment A – Technical Response* or *Attachment C – Financial Response* prior to the Financial Evaluation, upon written notice to Contractors that have submitted a quote.
20. Terminate an Agreement under this RFQ, in whole or in part, for Contractor's repeated failure to comply with any requirement under the Agreement.

**CONTRACTOR INFORMATION**

**RFQ 23-01  
Aggregate Hardware Buy 23-01**

**This Page is to be Completed By the Contractor Responding to the RFQ**

*The RFQ Submission must be fully and properly executed by a person authorized to legally bind the Contractor. 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 RFQ (including any Questions/Answers or addenda), the OGS Centralized Contract and that all information provided is complete, true and accurate.*

<b>Contract #</b>	<b>Contractor Name</b>	
<i>Contractor Signature:</i>	<i>Date:</i>	<i>Phone Number:</i> <i>E-Mail:</i>
<i>Printed or Typed Name:</i>	<i>Title:</i>	

*If you are not providing a RFQ Submission, place an "x" in the box, please explain why you are not responding, and return this page only.*

WE ARE UNABLE TO RESPOND AT THIS TIME BECAUSE: