

**Group 01600 – Milk, Fluid (Statewide)
Award 22773**

How to Use this Contract

NOTICE: THIS CONTRACT AWARD NOTIFICATION CONTAINS A SUBSET OF INFORMATION FROM THE INVITATION FOR BIDS (IFB). CONTRACTS RESULTING FROM IFB 22773 HAVE BEEN EXECUTED BY CONTRACT AWARD LETTER. THE CONTRACT AWARD LETTER SETS FORTH THE ORDER OF PRECEDENCE FOR THE TERMS AND CONDITIONS OF THE EXECUTED CONTRACTS. COMPLETE CONTRACT DETAILS INCLUDING TERMS AND CONDITIONS CAN BE FOUND IN THE IFB DOCUMENT DATED 06/19/15.

FLUID MILK CONTRACTS

Group 01600, Award 22773 includes all contracts resulting from IFB 22773 and executed between OGS and the Contractors. Please review the Award Document at <http://www.ogs.ny.gov/purchase/spg/awards/0160022773Can.htm> for terms and conditions. These contracts provide the procurement mechanism for the provision and delivery of Class 1 /Grade A Fluid Milk including but not limited to homogenized, low fat and fat-free products. Contracts have been awarded by Regions composed of one or more adjacent NYS counties identified in the table and map in the Contract Award Document.

ELIGIBILITY TO USE OGS MILK CONTRACTS

Any NYS state agency, public authority, public benefit corporation, local government or municipality, public school, nonprofit or volunteer organization (such as ambulance organizations, fire companies, and public libraries) is eligible to use OGS centralized statewide contracts. Any entity interested in using this contract must complete an eligibility application (<http://nyspro.ogs.ny.gov/sites/default/files/EligibilityApplicationForm.pdf>) to receive an Authorized User Customer ID Number.

ORDERING

Authorized Users may submit orders electronically via web-based ordering, e-mail, or facsimile or over the phone. Delivery instructions including delivery address, time, day and special instructions that may apply must be included on the Purchase Order. All orders must reference the Contract number, requisition, and/or Purchase Order number.

DELIVERIES

Deliveries are to be made strictly in accordance with instructions on Purchase Order from each Authorized User, on the day and date and within the time period specified.

PRICE

Base Prices for Fluid Milk are itemized by Region in the Contract Award Document. All prices are F.O.B. destination and may vary by Contractor and Region.

OGS OR LESS guidelines do NOT apply to this Award.

OVERLAPPING CONTRACT ITEMS

Products/services available under this Contract may also be available from other New York State contracts. Authorized Users are advised to select the most cost effective procurement alternative that meets their program requirements, and to document the basis for this selection in the procurement record.

PROCUREMENT RECORD

When placing a Purchase Order under the Contract(s), the Authorized User should be familiar with and follow the terms and conditions governing its use. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an Authorized User should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The Authorized User, when purchasing from OGS contracts, should hold the Contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible.

Authorized Users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- A statement of need and associated requirements,
- Obtaining all necessary prior approvals,
- A summary of the contract alternatives considered for the purchase,
- The reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

POOR PERFORMANCE

Authorized Users should notify the OGS Contract Manager for this Award or New York State Procurement Services Customer Services promptly if the Contractor fails to meet the requirements of this contract. Performance that does not comply with requirements or is otherwise unsatisfactory to the Authorized User should also be reported to Customer Services.

Please E-mail the OGS Contract Manager for Fluid Milk Award 22773 at PS_SW_Dairy@ogs.ny.gov

Or, contact Customer Services at:

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

Tel: 518-474-6717
Fax: 518-474-2437
E-mail: customer.services@ogs.ny.gov

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Frequently Asked Questions for Authorized Users

Authorized Users of this contract are strongly encouraged to read the contract in its entirety to gain an understanding of requirements for both the Contractor and Authorized Users. Below is a brief listing of Questions & Answers (Q&A's) to facilitate the use of the Fluid Milk contract.

Question: Is this contract restricted to specific Authorized Users?

Answer: No. Any Authorized User of NYS Contracts is eligible to use this contract. Authorized Users may make purchases and receive deliveries from the Contractor awarded to the Region in which the delivery will take place. Authorized Users interested in using this contract must complete an *Authorized User Requirement Form* and submit this form to OGS. OGS will review and forward the form to the Contractor awarded the Region in which the Authorized User is seeking delivery. The Contractor will make the final determination based on the Contractor's ability to meet the new customer's delivery requirements.

Question: I am in a region where there was no award. Can I use the contract?

Answer: No. Purchases from a non-awarded region will not qualify as a contract purchase, but you may contact an Awarded Contractor and request to purchase fluid milk under discretionary purchasing guidelines. Authorized Users should follow discretionary guidelines and proper procurement policies for their organization.

Question: I did not file a Requirement Letter but would like to use the contract. What are the procedures?

Answer: Please complete an *Authorized User Requirement Form* and submit to NYS OGS at PS_SW_Dairy@ogs.ny.gov. OGS will review and forward the form to the appropriate Contractor. Authorized Users who wish to participate in these contracts after the award has been issued may do so only with the concurrence of the Contractor awarded the Region in which the Authorized User is seeking delivery.

Question: Can the Awarded Contractor decline the request to add me as a Customer?

Answer: Yes, the addition of new customers is at the discretion of the Awarded Contractor.

Question: My Milk Contractor also sells yogurt and cheese. Can I buy these products under this contract?

Answer: No. This Contract Award is limited to fluid milk.

Question: Are Authorized Users required to provide a Purchase Order when ordering from the Contract, even if the order is a "standing" order?

Answer: Yes, Authorized Users must submit a Purchase Order or other form of ordering directly to the contractor. A Purchase Order may be in the form of a written purchase order, procurement card, electronic purchase order or other authorized instrument. Products are not to be delivered by a Contractor until a Purchase Order has been received.

Question: How often is the price updated, and how are we notified?

Answer: Milk prices are adjusted in two ways. A.) Monthly Price adjustments are issued on the 1st of every month and apply to the Base Price in effect at the time of the update. B.) The Base Price will remain firm through June 30, 2016. Beginning July 1, 2016, an annual price adjustment will be allowed once per year. Please see the Award document for more information.

Milk Contract pricing updates are posted to the OGS website :
<http://www.ogs.ny.gov/purchase/spg/awards/0160022773Can.htm>.

We encourage all Authorized Users to enroll in the OGS Purchaser Notification System (PNS) to receive emails about the changes to pricing.

Question: How do I get emails from the OGS Purchaser Notification System (PNS) about Contract updates?

Answer: Enroll in the OGS Purchaser Notification System (PNS) to get email notices for any OGS Centralized Contract. For Milk, Food or Bread enroll with code 50 – Food, Beverage and Tobacco products. The PNS will email you notices based upon the codes to which you subscribe.

Sign up for PNS updates today: <http://www.ogs.ny.gov/PNS/default.asp>.

Question: How do I find my Region and the Awarded Contractor?

Answer: This award divides the State of NY into eighteen (18) Regions. Each Region is composed of one or more adjacent NYS counties as identified in the table below.

REGION	REGION DESCRIPTIONS (COUNTIES)	CONTRACTOR
1	Richmond (Staten Island)	Cream-O-Land Dairies, LLC
2	Kings (Brooklyn)	
3	Queens	
4	Suffolk	
5	Nassau	
6	Bronx, New York (Manhattan)	
7	Rockland, Westchester	
8	Orange, Putnam	
9	Dutchess, Sullivan, Ulster	
10	Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, Washington	Byrne Dairy, Inc.
11	Clinton, Franklin, Essex, Hamilton	
12	Jefferson, Lewis, St. Lawrence	
13	Fulton, Herkimer, Montgomery, Oneida, Otsego, Schoharie	
14	Broome, Chenango, Cortland, Delaware	
15	Cayuga, Madison, Onondaga, Oswego	
16	Schuyler, Steuben, Tioga, Tompkins	NO AWARD
17	Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates	Upstate Niagara Cooperative, Inc.
18	Allegany, Cattaraugus, Chautauqua, Erie, Niagara	

Question: We need a new milk type and container size to meet program requirements. Can we get this added to the contract?

Answer: Yes. If an Authorized User needs a specific type of milk and/or type of package/size that is not listed and the Contractor carries it, then it may be added to their contract list of products. Pricing in such an event, is to be commensurate with other Fluid Milk of a similar type/size. Please notify the OGS Contract Manager of your need.

Question: I ordered fat free chocolate and the vendor substituted 1% strawberry without asking me. I did not notice right away. Am I stuck with this product?

Answer: There should be no substitution of products ordered without the express authorization of the Authorized User. The Authorized User will not be held liable for unauthorized product substitutions.

Question: Our delivery needs have changed. Can the contractor force us to use what was stated in the Milk Delivery Schedule?

Answer: No. Under this Award, deliveries are to be made in accordance with instructions on the purchase order from each Authorized User. Authorized Users must include specific delivery instructions (day, time, location, etc.) on each Purchase Order. It is the contractor's obligation to seek clarification from the Authorized User and, if applicable, from OGS Procurement Services.

Question: Will Authorized Users be notified if a fuel surcharge is being applied?

Answer: Yes. In the event a Fuel Surcharge is applied, OGS will issue a *Contract Award Notification Update* on our website that instructs how much of a surcharge will be added per delivery. No surcharges shall be paid by Authorized Users unless OGS issues such instructions Authorized Users should enroll in the OGS Purchaser Notification System (PNS) to receive important email notices.

Question: How will we know if there is a product recall?

Answer: Contractors must notify OGS immediately of any recalls pertaining to contract items. OGS will post a *Contract Award Notification Update*. Authorized Users should enroll in the OGS Purchaser Notification System (PNS) to receive important email notices.

Question: The Contractor gave us a milk cooler and it stopped working. Who is responsible for repairs, or supplying a replacement if necessary?

Answer: The Contractor is required to provide milk coolers, dollies, dispensers or carts to Authorized Users at no additional cost. The coolers, dollies, dispensers and carts are to be provided, installed, maintained and replaced (if necessary) by the Contractor at the contractor's expense. On conclusion of the contract, the equipment remains the property of the Contractor and is to be removed at contractor's expense.

Question: The Contractor missed a delivery and cannot reschedule the delivery in time to meet our needs. If we make a retail purchase, can we charge the Contractor for the difference in cost?

Answer: In the event that a Contractor misses a regular scheduled delivery, the contractor must work cooperatively with the Authorized User to reschedule the delivery at no additional cost to the Authorized User. If resolution cannot be reached within 24 hours, the Authorized User may purchase required quantities from the open market. Any price difference between open market price and contract price will be charged back to the awarded Contractor, and applied to the Authorized User account as a credit.

Question: I have reported the same problem multiple times to the Contractor; however, the Contractor never seems to get my problem resolved. Who can help me?

Answer: Authorized Users may contact the OGS Contract Manager at any time. However, OGS encourages Authorized Users to work directly with Contractors to resolve issues. Ensure you are in communication with the correct representative as listed in the link to the Contractor Information pages found here: <http://www.ogs.ny.gov/purchase/spg/awards/0160022773CAN.htm>. In the event that a problem is persistent or the Contractor is unable to provide a solution that meets the Authorized Users requirements, OGS should be contacted. Authorized Users should complete and submit a Contract Performance Report to the OGS Contract Manager at PS_SW_Dairy@ogs.ny.gov.

Question: My delivery was left unattended on the dock and we were not notified. What are my options?

Answer: Contractor shall secure a signed receipt from Authorized User certifying to physical delivery of product. In the event deficiencies are later noted and a properly signed receipt is not available, Contractor will be responsible to ship adequate additional product, as soon as possible, to resolve the deficiency. Such certification does not imply acceptance of product. Acceptance shall be made only after the inspection of goods by the Authorized User.

Deliveries left on the loading dock without acceptance by the Authorized User shall be considered “abandoned goods” and shall be returned at the Contractor’s expense or disposed of at the discretion of the Authorized User.

Frequently Asked Questions for Vendors

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Question: The School District (our regular customer) has us deliver to the kitchen door but no one answers the door or the contact phone number from the Milk Delivery Schedule. What should I do?

Answer: Verify delivery instructions from the Authorized User's Purchase Order and attempt to call the facilities main number and ask for assistance. Please keep in mind that deliveries left on the loading dock without acceptance by the Authorized User shall be considered "abandoned goods" and shall be returned at the Contractor's expense or disposed of at the discretion of the Authorized User. Contact the OGS Contract Manager for further assistance.

Question: When is the Base Price for Milk updated?

Answer: Beginning July 1, 2016 and reoccurring annually on this date, an annual price adjustment will be allowed based on the Consumer Price Index (CPI-U) for all Urban Consumers, Not Seasonally Adjusted, U.S. City Average, All Items (Series ID: CUUR0000SAO) as published by the US Department of Labor, Bureau of Labor Statistics, Washington D.C. 20212.

Question: An Authorized User in my Region states that the whole milk listed on the Milk Delivery Schedule is an error, and needs 1% instead. Is it too late to change?

Answer: No, it is not too late to change. The estimated quantities provided in the Milk Delivery Schedule were for bidding purposes only. Upon award, OGS recommended that awarded Contractor(s) confirm accuracy of quantities listed with the Authorized User prior to acceptance of Purchase Orders. There is no guaranteed minimum sale to any awarded Contractor.

Question: We sell yogurt cheese, and other dairy products. Can we sell these products under this contract?

Answer: No, this contract is for Fluid Milk only. Contractors may not sell other dairy products under this contract. Sale of those items is considered open market or non-contract.

Question: An Authorized User needs a new milk type and container size to meet program requirements. How can we get this added to the contract?

Answer: If an Authorized User needs a specific type of Fluid Milk, or a container size that is not currently listed in the Base Prices by Region document, and the Contractor agrees to supply it, the product may be added to the contract. Pricing is to be commensurate with other Milk of a similar type/size, and region. Contractors should contact the OGS Contract Manager at PS_SW_Dairy@ogs.ny.gov prior to adding new products.

Question: An Authorized User in a non-awarded region would like to purchase milk under our contract. Can they be added as a NYS Contract customer?

Answer: No. Contract sales are limited to the Contractor's awarded Region(s). Sales to any customer outside the Awarded Region will be considered as open market / non-contract transactions. Open market sales volume may not be included in the Contract Usage Report (report of contract sales). As a courtesy, a Contractor may extend contract pricing to non-contract customers. Please contact the OGS Contract Manager for Fluid Milk Award 22773 at PS_SW_Dairy@ogs.ny.gov with additional questions.

Question: Can Contractors lower their prices for an Authorized user or are they required to sell products at the current contract price?

Answer: Yes. Contractors may offer lower prices and/or discounts at any time to any Authorized User. Contract price increases however, may only occur according to the schedule outlined in the Contract Award Notification.