

Group 05400 – Award 23083

ENVIRONMENTALLY PREFERABLE LIGHTING (Statewide)

FREQUENTLY ASKED QUESTIONS

August 13th, 2018 (updated July 26, 2021)

Authorized Users of these contracts are strongly encouraged to read the contract terms and conditions in its entirety to gain an understanding of the requirements for both the Contractors and Users. Below is a brief listing of Questions & Answers (Q&A's) to facilitate the use of the *Environmentally Preferable Lighting* contract.

Question: Who is the OGS contact for this Contract Award?

Answer: Sefora Castrello, Contract Management Specialist
Procurement Services, 38th Floor - Corning Tower, Empire State Plaza, Albany, NY 12242
Phone: 518-473-8098
E-mail: Sefora.Castrello@ogs.ny.gov

Question: What is the contract term of this Award?

Answer: August 13, 2018 through August 12, 2023.

Question: Where do I find the awarded products and the contract pricing?

Answer: The awarded products and contract pricing is found by clicking on the 'Pricing Information' link on the "Contractor's Information" page.

Question: Are all of the products on this contract environmentally friendly?

Answer: Yes, all of the awarded products have been reviewed to ensure that they meet the environmental specifications contained in the 'Specifications' section of the Contract Award Notification document. These specifications are based on the Executive Order 4 specification for *Lighting Fixtures, Ballasts and Lamps*.

Question: Does this contract award include services such as design and/or installation?

Answer: No. This contract is for product only and does not include any services such as design and/or installation. Authorized Users are not permitted to purchase services from this contract.

Question: Can I purchase products that are not listed on the 'Pricing Information' document?

Answer: No. Authorized Users may only purchase the products that are listed on the 'Pricing Information' document.

Question: What are the terms of Pricing?

Answer: Price includes all customs duties and charges and is net, F.O.B. destination any point in New York State, for orders, as designated by the ordering agency.

Question: Can an Authorized User negotiate lower pricing on large quantities of the same product?

Answer: Yes, an Authorized User can negotiate lower pricing at any time.

Question: How often are the NYS Contract Price updated and how is the update processed?

Answer: Contractors shall hold pricing firm for one year from the start date of the Contract. After the first year of the contract, prices will be adjusted in accordance with Section 9 Price Adjustments. Prices may be lowered by the Contractor at any time. OGS, at its discretion, may request price changes at any time, if it is in the best interest of the State.

Question: Can an Authorized User order from any of the Contractors listed?

Answer: This Contract is issued under a multiple award structure. Authorized Users shall procure Products that best meet their form, function, and utility requirements.

Before proceeding with a purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law, particularly §162, regarding Products provided by Preferred Source suppliers.

Pursuant to State Finance Law § 163(10)(c), at the time of purchase, Authorized Users must base their selection among multiple Contracts upon which is the most practical and economical alternative that is in the best interests of the State.

Authorized Users shall review OGS price lists posted on the OGS website listed by Contractor, Lot, and Item to determine best pricing. Authorized Users shall utilize the Product of the Contractor offering the lowest price that meets the Authorized User's form, function, and utility requirements, documenting in the procurement record the determination of the criteria used for the selection. Authorized Users should review the contract for any additional discounts offered by the contractor.

Authorized Users are encouraged to use the Contractor offering the lowest price, but if that Contractor is not selected, then the agency must prepare documentation for the procurement record explaining the reason and the action taken (i.e., the low Contractor could not provide the Product in the time frame required, Contractor did not have the needed equipment, etc.).

Question: How are orders accepted by the Contractors?

Answer: Purchase Orders shall be made in accordance with the terms set forth in Appendix B – Purchase Orders. Authorized Users may submit orders over the phone. Orders submitted during business hours shall be deemed received by Contractor on the date submitted. If available, Authorized Users may submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted after business hours shall be deemed received by Contractor on the next business day. See Section 1.10 - Glossary, "Business Day." Orders shall be shipped to the specified destination within 24-48 hours after receipt of order with the exception of non-stock orders which must be provided within 10 business days after receipt of order. In the event that orders are not shipped in the times specified, the Contractor is responsible for contacting the Authorized User in a timely manner utilizing the contact information provided on the Authorized User's purchase order.

All orders shall reference Contract number, requisition, and/or purchase order number (if applicable). Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation shall be itemized, and include purchase price, date of purchase, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

Question: Is there a minimum order?

Answer: The minimum order for this award is \$50. Contractor shall fulfill all orders at or above this amount. Contractor may fulfill orders less than the minimum order.

Question: Where do I find information on the Contractors?

Answer: Information for each Contractor is found by clicking on the “Contractors’ Information” link on the OGS website landing page for this Award. Within this document are additional links to: (a) Contractor’s Ordering Information; (b) Resellers; and (c) Pricing Information.

Question: Are there Minority and/or Women Owned Business (MWBE) goals for this Contract Award?

Answer: Yes, there are MWBE goals of 15% MBE and 15% WBE for a total goal of 30%. Contractors should refer to Section 21 ‘MWBE Requirements and Procedures’ in the ‘Terms and Conditions’ section of the Contract Award Notice for more information on compliance and reporting.

Question: How do we know if a reseller or Contractor is an MWBE?

Answer: If a Contractor is a NYS certified M/WBE, it will be noted in the Contract Award Notification (CAN), on the Contractor’s Information Page, or in the ‘Resellers’ document.

Question: Are there Service-Disabled Veteran Owned Business (SDVOB) goals for this Contract Award?

Answer: Yes, there is an SDVOB goal of 6%. Contractors should refer to Section 22 ‘SDVOB Participation Opportunities’ in the ‘Terms and Conditions’ section of the Contract Award Notice for more information on compliance and reporting.

Question: How do we know if a reseller or Contractor is an SDVOB?

Answer: If a Contractor is a NYS certified SDVOB, it will be noted in the Contract Award Notification (CAN), on the Contractor’s Information Page, or in the ‘Resellers’ document.

Question: What if a product has a Quality Problem or Errors?

Answer: In addition to the provisions of Appendix B, Title and Risk of Loss, Product Substitution, and Rejected Product, Products returned or exchanged due to quality problems, duplicated shipments, outdated Product, incorrect Product shipped, Contractor errors otherwise not specified, or Products returned or exchanged due to Authorized User errors, shall be replaced with specified Products or the Authorized User shall be credited or refunded for the full purchase price.

Products shall be replaced within 10 business days of written notification to the Contractor of the Authorized User’s intent to return or exchange the Product. Contractor can charge only a restocking fee for Product returned or exchanged due to Authorized User error that is determined not to be suitable for resale; the restocking fee cannot exceed the net price of the returned or exchanged Product.

Any credit or refund shall be applied against the next bill/invoice submitted by the Contractor to the Authorized User. If no credit or refund, or only a partial credit or refund, is made in such fashion, the Contractor shall pay to the Authorized User the amount of such credit or refund or portion thereof still outstanding, within 30 calendar days of demand.

Question: Is there a way to report problems to the Office of General Services with the service being provided by a Contractor?

Answer: Yes, you may contact the Contract Manager listed herein or you may contact **OGS Customer Service** utilizing the link on this award Contract Summary Page and/or completing a Contract Performance Report and return to the Contract Manager.

Question: Do the "OGS or Less" guidelines apply to this Award?

Answer: Purchases of the products included in these Contracts are subject to the "OGS or Less" provisions of State Finance Law §163(3)(a)v). This means that State agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State agencies should refer to Procurement Council Guidelines for additional information.

Question: Is there a particular reporting template that a Contractor should use to report sales to OGS?

Answer: Yes, the Contractor shall submit sales reports bi-annually in January and July using Attachment 8 – Report of Contract Usage. The reports shall cover the prior six-month period and shall include total sales to the Authorized Users of this Contract by the Contractor, and all authorized resellers, dealers and distributors, if any. The report shall be submitted no later than 15 days after the close of the six-month period. If the Contract period begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be included in the bi-annual report. Contractors shall specify if any authorized resellers, dealers or distributors are NYS Certified Minority- and/or Women-Owned Business Enterprises (MWBES), small business enterprises (SBEs), or Service-Disabled Veteran-Owned Businesses (SDVOBs).

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

The report in Attachment 8 – Report of Contract Usage contains the minimum information required. Additional related sales information, such as detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis may result in Contract cancellation and designation of Contractor as non-responsible.

Question: Are Resellers/Distributor/Authorized Dealer allowed to accept purchase orders and receive payments?

Answer: Yes, when noted in the 'Reseller' document. If a Reseller is not listed to accept orders and payments, then orders and payments must be directed to the Contractor.

Question: Are Contractors able to modify their Resellers/Distributor/Authorized Dealer listing

and if so, how should modifications be requested?

Answer: If a Contractor allows Reseller to participate in the contract in accordance with the Authorized Dealers/Distributors clause of the Award, requests to add or delete dealers/distributors or to modify dealers/distributors' information must be submitted for prior approval of the State by the submission of a completed, revised Dealer/Distributor Information document to the Contract Manager listed herein. A Contractor should make additions/deletions to their *Contractor and Reseller/Distributor Information Sheet*.

Question: If a Contractor would like to add a Reseller/Distributor/Authorized Dealer but the Reseller/Dealer/Authorized Distributor does not have a valid NYS Vendor Identification number, what is the process for requesting one?

Answer: NYS Vendor Identification numbers can be obtained by submitting an OSC Substitute W-9 form to the Contract Manager who is referenced herein. An OSC Substitute W-9 form can be found at the following link: http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf

OGS will initiate the vendor registration process. Once the process is initiated, registrants will receive an email from the Office of State Comptroller (OSC) that includes the unique ten-digit NYS Vendor Identification Number assigned to the Reseller/Distributor/Authorized Dealer and instructions on how to enroll in the online Vendor Self-Service application.