



Contract Award Notification

Title	: Group 05600 – Gasoline & E-85 (Statewide) Classification Code(s): 15
Award Number	: <u>23215</u> (Partially Replaces Award 23092) Runs concurrent with Award 23092
Contract Period	: March 19, 2021 – December 16, 2021
Bid Opening Date	: January 28, 2021
Date of Issue	: March 10, 2021
Specification Reference	: As Incorporated Herein
Contractor Information	: Appears on Page 2 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
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**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

The purpose of this Contract is to provide Authorized Users with a means of acquiring various grades of Gasoline by bulk delivery to an Authorized User's storage facility for use in the Authorized User's own pumps. The product shall be Contractor furnished, delivered and unloaded as specified herein. For current contract prices, please go to the Pricing Information link on the Award page.

This Award has 5% MBE, 0% WBE and 0% SDVOB goal requirements.

PR # 23215

NOTE: See individual contract items to determine actual awardees.

CONTRACT Number	CONTRACTOR & ADDRESS	CONTACT INFORMATION	FEIN / NYS VENDOR ID
PC69331	Global Montello Group Corp. 800 South Street Waltham, MA 02454	Mark Romaine Chief Operating Officer Phone: 781-398-4003 Email: Bids@globalp.com <u>Customer Service Contact for NYS Contract Orders (24/7/365):</u> Dispatch Department Toll Free: 800-826-5686 Email: smartbuydispatch@globalp.com <u>Contact to Escalate Contract Orders:</u> Dispatch Department Toll Free: 800-826-5686 Email: smartbuydispatch@globalp.com <u>Contact for After Hours, Weekend, and/or Holiday Emergency:</u> Dispatch Department Toll Free: 800-826-5686 Email: smartbuydispatch@globalp.com <u>Contacts for NYS Declared Emergencies or Disasters:</u> Mark Romaine Chief Operating Officer Phone: 781-398-4281 Email: MRomaine@globalp.com Kevin Bowe (Back-up) Dispatch Manager Phone: 781-398-4059 Email: kbowe@globalp.com <u>Contact for Billing Issues:</u> Bid Department Phone: 781-398-4003 Email: bids@globalp.com	043443028 1100005467

Cash Discount, If Shown, Should be Given Special Attention.

INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" and "Electronic Payments" in this document.)

AGENCIES SHOULD NOTIFY NEW YORK STATE PROCUREMENT SERVICES PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS, RP, RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. 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,
- 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).

AWARDS BY COUNTY

The pricing included in this section is the original pricing bid by the contractor. For current pricing, please go to the Pricing Information link on the Award page.

County	Fuel Type	Final Bid	Volume Discount	Contractor
Bronx	OPRG(E) Gas Regular	\$1.4130	\$0.0000	Global Montello Group Corp.
Kings	OPRG(E) Gas Regular	\$1.4130	\$0.0000	Global Montello Group Corp.
Kings	OPRG(E) Gas Premium	\$1.5376	\$0.0000	Global Montello Group Corp.
New York	OPRG(E) Gas Premium	\$1.5376	\$0.0000	Global Montello Group Corp.
Queens	OPRG(E) Gas Regular	\$1.3730	\$0.0000	Global Montello Group Corp.
Queens	OPRG(E) Gas Mid Range	\$1.3760	\$0.0000	Global Montello Group Corp.
Queens	OPRG(E) Gas Premium	\$1.4976	\$0.0000	Global Montello Group Corp.
Westchester	OPRG(E) Gas Regular	\$1.3727	\$0.0000	Global Montello Group Corp.
Westchester	OPRG(E) Gas Mid Range	\$1.4157	\$0.0000	Global Montello Group Corp.
Westchester	OPRG(E) Gas Premium	\$1.4981	\$0.0000	Global Montello Group Corp.

NEW ACCOUNTS

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agencies shall not be required to provide credit references.

Contractors must notify OGS Procurement Services of any new business created from Authorized Users' requests for delivery, so that OGS Procurement Services can make adjustments to the delivery schedules to capture these new accounts. All cases shall require Contractors to notify both contract user and OGS Procurement Services of any locations not originally identified on the Delivery Schedules, within thirty (30) days after the first delivery is made.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B, Participation in Centralized Contracts. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), the terms of the Price clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS web site (<https://www.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

EXTENSION OF USE

This Contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State and the Contractor. Political subdivisions and other authorized entities within each participating state or governmental jurisdiction may also participate in any resultant Contract 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.

ESTIMATED QUANTITIES

This Contract is an estimated quantity Contract. The estimated quantities are based on requirements submitted to OGS by Authorized Users to purchase from this Contract. These Authorized Users have agreed not to enter into any other contracts for the Gasoline that they filed for during the Contract period, and the Authorized Users have agreed to purchase all their Gasoline requirement needs from awarded contracts. No specific quantities are represented or guaranteed, and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities actually ordered at or below the Contract prices. Authorized Users will be encouraged to purchase from Contractors who offer the Products and pricing that best meet their needs in the most practical and economical manner. See Appendix B, Estimated/Specific Quantity Contracts and Participation in Centralized Contracts.

PRICE

Prices quoted shall be billed net per gallon, F.O.B. Authorized User storage tanks, including all applicable customs, duties, taxes, including LUST, license fees and surcharges, and as designated by the ordering Authorized User. Contract prices are expressed in U.S. currency.

Pricing for contract purchases shall be based on the pricing in effect at the time the Authorized User places the order. Authorized Users that are on automatic delivery, shall be priced on the day of delivery, unless the Authorized User requests a separate delivery from their automatic delivery schedule. The price shall then reflect the day of the order for the separate delivery.

It shall be the Contractor's responsibility to satisfy Authorized User requirements by furnishing blended product when called for during the time period indicated in the Solicitation.

If the Contractor extends special allowances during the term of the Contract to Federal, State, Local Governments or to commercial users in the normal course of doing business, New York State requires that such allowances will also be available to the State in the maximum amount extended to others who contract to purchase fuel under similar contractual terms and conditions. Contract prices shall be firm except that price revisions shall be permitted in accordance with the PRICE REVISIONS clause and with respect to certain taxes and duties as follows:

"After-imposed tax" means any new or increased Federal, State and local excise tax or duty, except social security or other employment taxes, on fuel purchased under any contract to be awarded hereunder which the Contractor is required to pay or bear the burden of as the result of legislative, judicial, or administrative action taking effect after the date of contract award.

"After-relieved tax" means any amount of Federal, State and local excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on fuel purchased under any contract to be awarded hereunder which the Contractor is not required to pay or bear the burden of, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial or administrative action taking effect after the date of contract award.

The Contract price shall include all applicable customs, duties, taxes, license fees and surcharges as stated in Appendix B §8 Taxes.

NOTE: The State of New York and its political subdivisions are exempt from New York State and local sales taxes and federal excise taxes.

The price for fuel under any contract to be awarded hereunder shall be increased by the amount of any after-imposed tax, unless the legislative, judicial or administrative act says otherwise, if the

Contractor states in writing that such contract price does not include any contingency for such after-imposed tax. Such increase shall be prospective only and becomes effective upon such written notice and on the effective date of the next scheduled price revision.

The price for gasoline under this Contract shall be decreased by the amount of any after-relieved tax. Such decrease shall be effective when realized or by no later than the next scheduled price revision.

The Contract price shall also be decreased by the amount of any excise tax or duty, except social security or other employment taxes that the Contractor is required to pay or bear the burden of or does not obtain a refund of through the Contractor's fault or negligence.

The Contractor shall promptly notify the Procurement Services Contract Management Specialist of all matters relating to any excise tax or duty that reasonably may be expected to result in either an increase or decrease in the Contract price for gasoline.

1.1. PRICE ADJUSTMENTS/REVISIONS

Contract prices shall be firm except that price revisions will be permitted in accordance with the following procedure:

Revisions to the original Contract price shall be based on prices published in the OPIS (OIL PRICE INFORMATION SERVICE) Weekly Published Newsletter as indicated in the chart below. The weekly average of the daily high and low prices shown in the publication for each of the three-conventional unleaded gasoline fuel types, RBOB, PreRBOB and Ethanol will be used to compute price revisions during the contract period.

Location in OPIS Newsletter	Fuel	Weekly Averages Spot Report location
Page 2 – In Cash Markets Northeast	Reg Unl	Linden Weekly Average
Page 2 – In Cash Markets Northeast	Mid Unl	Linden Weekly Average
Page 2 – In Cash Markets Northeast	Pre Unl	Linden Weekly Average
Page 2 – In Cash Markets Northeast	RBOB	NY Harbor Barge Weekly Average
Page 2 – In Cash Markets Northeast	Pre RBOB	NY Harbor Barge Weekly Average
Page 10 – Spot Market Prices	Ethanol	New York

Please note: base prices were calculated using the following methods using the information from OPIS (OIL PRICE INFORMATION SERVICE) Weekly Published Newsletter (October 5, 2020 Vol. 41, No. 40):

- Conventional gasoline base prices are the published Linden Weekly Averages.
- OPRG (E) Gas Regular base price is calculated by taking 90% of the RBOB value and adding it to 10% of the ethanol value.
- OPRG (E) Gas Mid Range base price is calculated by taking 90% of the average of RBOB and Pre RBOB and adding it to 10% of the ethanol value.
- OPRG (E) Gas Premium base price is calculated by taking 90% of Pre RBOB value and adding it to 10% of the ethanol value.

Procurement Services will compute any price revisions by determining the difference between the weekly average of the daily high and low prices (base prices) published in the Cash Markets – Weekly Average Spot Report on October 5, 2020 and the weekly average of the daily high and low prices published on Monday every week during the contract period beginning with

the publication on December 21, 2020 or the publication immediately following the start date of the contract, whichever occurs first. This differential (adjustment) + or - will be added to the base bid prices. Applicable price changes will be effective as of the start of business on the Friday immediately preceding the day of publication. Generally, the weekly average published in OPIS represents a 5-day average of high and low prices; however, as holidays occur which would eliminate a given daily range of prices, the weekly average may represent less than a 5-day average. Regardless of the number of days represented in the weekly average, the published weekly average will be utilized as the basis for price revisions. Final price shall be calculated by applying the above stated price revision to the base bid price.

The State reserves the right to change to a daily, bi-weekly or monthly schedule in price revisions if the market conditions so warrant.

Should postings become unavailable or differ from current description and/or format, a posting determined by the Commissioner of the Office of General Services in his/her sole discretion, to be most reflective of market conditions, will be used.

Corrections to posted prices previously published will be considered when caused by a typographical or clerical error on the part of said publisher.

The following clauses shall apply to all price adjustments under any contract awarded:

- (1) Price increases are limited to changes in pre-selected postings as noted above. Increases in contract costs or prices to compensate for other increases in the cost of doing business, regardless of where such cost increases are attributable, will not be allowed during the contract period.
- (2) The EPA has determined that gasoline sold in certain counties: Bronx, Dutchess, Essex (portion of), Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester [in the New York City Consolidated Metropolitan Statistical Area (CMSA)], are subject to regulations mandating the use of OPRG(E) gasoline. Recognizing that pricing differentials occur on a regular basis; the State will incorporate the following methodology in the determination of the weekly price revision.

**EXAMPLE: METHODOLOGY FOR RBOB AND ETHANOL ADJUSTMENTS
(OPRG (E) UNLEADED FUEL TYPES)**

Posted Date: (hypothetical) August 10, 2015

RBOB x .90 + Ethanol x .10 = Blended Average

$$1.7082 \times .90 = 1.5373(8)$$

$$1.5620 \times .10 = 0.1562(0)$$

Blended Average

$$1.5373 + .1562 = 1.6935$$

Posted Date: (Hypothetical) December 21, 2015

RBOB x .90 + Ethanol x .10 = Blended Average

$$1.7820 \times .90 = 1.6038(0)$$

$$1.1063 \times .10 = 0.1106(3)$$

Blended Average

$$1.6038 + .1106 = 1.7144$$

ADJUSTMENT CALCULATION

December 21, 2015 Blended Average \pm August 10, 2015 Base Blended Average =

Adjustment

$$1.7144 - 1.6935 = +.0209^*$$

*This figure being a positive number will be added to the base Contract price. If the figure is a negative number, it would be subtracted from the base Contract price. For the OGS web based posted pricing this adjustment will be added or subtracted to the base Contract price.

EXAMPLE: METHODOLOGY FOR E-85 ADJUSTMENTS

Posted Date: (Hypothetical) August 10, 2015

Regular Unleaded x .15 + Ethanol x .85 = Blended Average

$$1.6482 \times .15 = .2472(3)$$

$$1.5620 \times .85 = 1.3277(0)$$

Blended Average

$$.2472 + 1.3277 = 1.5749$$

Posted Date: (Hypothetical) December 21, 2015

Regular Unleaded x .15 + Ethanol x .85 = Blended Average

$$1.8844 \times .15 = .2826(6)$$

$$1.1063 \times .85 = .9403(5)$$

Blended Average

$$.2826 + .9403 = 1.2229$$

ADJUSTMENT CALCULATION

December 21, 2015 Blended Average \pm August 10, 2015 Base Blended Average = Adjustment

$$1.2229 - 1.5749 = -.3520^*$$

*This figure being a negative number will be subtracted from the base Contract price. If the figure is a positive number it would be added to the base Contract price. For the OGS web based posted pricing this adjustment will be added or subtracted to the base Contract price.

ALL FIGURES ARE TRUNCATED TO FOUR DECIMAL PLACES IN DOLLARS PER GALLON.

- (3) Contractor shall designate in their Contract an individual, the individual's position in the company and telephone number, who will be responsible for and authorized to act on behalf of the company with respect to these price adjustments.

VOLUME DISCOUNTS

Contractor may provide a Volume Discount for a given item for all individual orders 5,500 gallons or greater in Attachment 1 – Pricing. The Volume Discount for a given item shall be applied to the invoice for each individual order placed by an Authorized User for an item which results in a single delivery of 5,500 gallons or greater.

ORDERING

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, and, if available, may submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted shall be deemed received by Contractor on the date submitted.

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 should be sufficiently detailed, and include, at

a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

MINIMUM ORDER

Minimum delivery shall be 500 gallons to each tank at each delivery location (site) as determined by the Delivery Schedule. Minimum order for Motor Transport deliveries shall be 5,500 gallons. Deliveries under 500 gallons are at the Contractor’s option, except for tank top-offs for testing. All deliveries requested by an Authorized User of less than the minimum order size, including tank top-offs for tank testing, shall qualify for contract pricing. The following tiered schedule may be utilized by the Contractor:

Determination for total gross tank capacity shall include all manifolded tanks. All locations granted a request from the Contractor for “automatic replenishment” per Section Automatic Replenishment, shall be exempt from minimum order requirements, including other factors out of the control of Authorized Users (e.g., short filling, mechanical issues, inadequate fuel supply). In no case shall a surcharge be applied to a location while on “automatic replenishment.”

Tank Capacity (in gallons)	Amount Delivered	Optional Surcharge
1000 or more	Under 500 to 250	\$50.00
	Under 250	\$75.00
Tank Capacity (in gallons)	Amount Delivered	Optional Surcharge
Less than 1000	Under 500 to 250	\$25.00
	Under 250	\$50.00

Upon written direction by OGS, an Authorized User shall have one (1) delivery per tank per contract year for tank top-off testing that is exempt from any minimum order surcharge.

If delivering to same property, but to separate tanks, minimum delivery charge will only be applicable if total delivery to property is less than minimum order size.

METHOD OF DELIVERY

TW: Delivery by tank wagon into storage tanks of less than 5,500 gallons

MT: Minimum delivery of 5,500 gallons to one or more tanks from one fixed location of the delivery vehicle.

All such deliveries shall first be recorded directly into the transporting vehicle.

PURCHASING CARD ORDERS

If the Contractor accepts orders using the State’s Purchasing Card (see Appendix B, Purchasing Card), also referred to as the Procurement Card, the Contractor shall not charge or bill the Authorized User for any additional charges related to the use of the Purchasing Card, including but not limited to processing charges, surcharges or other fees.

INVOICING AND PAYMENT

Invoicing and payment shall be made in accordance with the terms set forth in Appendix B, Contract Invoicing.

The Contractor is required to provide the Authorized User with one invoice for each Purchase Order at the time of delivery. The invoice must include detailed line item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

- Contractor Name
- Contractor Billing Address
- Contractor Federal ID Number
- NYS Vendor ID Number
- Account Number
- NYS Contract Number
- Name of Authorized User indicated on the Purchase Order
- NYS Agency Unit ID (if applicable)
- Authorized User's Purchase Order Number
- Order Date
- Invoice Date
- Invoice Number
- Invoice Amount
- Product Descriptions
- Unit Price
- Quantity
- Unit of Measure
- Dates of Service/Delivery (if applicable)

Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying ordering systems in use by different Authorized Users. Visit the following link for further guidance for vendors on invoicing: <https://bsc.ogs.ny.gov/content/vendor-information>.

PRODUCT DELIVERY

Delivery of all Contract Products shall be made in accordance with Appendix B, §31 *Product Delivery* and §33 *Shipping/Receipt of Product*. Delivery shall be made as specified and in accordance with instructions furnished with each order, unless otherwise directed in writing. Contractor must be prepared, at all times, to make prompt delivery. Every bid states what the maximum time a delivery will take from the moment of order, but the time shall never exceed 24 hours. Should there be an after-hours or weekend emergency or should agency run out of Gasoline and E-85 at any time creating an emergency situation, or in a state declared emergency, the Contractor shall be required to provide product within eight (8) to twelve (12) hours of a telephone call from the agency or notification.

Delivery shall be made in accordance with instructions on the Purchase Order from each Authorized User. If there is a discrepancy between the Purchase Order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from OGS, Procurement Services. On occasion, to prevent fuel run outs during storms or other emergency situations, the Contractor must allow Authorized Users the flexibility to manually schedule deliveries to top-off tank inventories. Normal deliveries are considered to be Monday thru Friday (8:00 am - 5:00 pm). Saturday/Sunday deliveries are not standard and are to be made on an emergency basis (and not a regular basis) ONLY, or if a run out is imminent before the next normal delivery day. Delivery of Gasoline and E-85 should give first priority to "Human Needs Customers."

Failure to make prompt delivery may result in an Authorized User's submission of a Contract Performance Report to OGS. In addition to any available remedies per Appendix B, Section 48 *Remedies for Breach*, (a), (d) and (e), the Authorized User shall have the right to purchase sufficient Gasoline on the open market to fill such tank or tanks and to charge any increase in price paid over the current contract price to the account of the Contractor.

Authorized Users shall be responsible for ensuring that tanks are accessible to the Contractor. Authorized Users should also make certain that receiving personnel are available at time of delivery. Failure of the Authorized User to make appropriate delivery arrangements, which prevents the delivery of product upon Contractor's arrival at delivery site, may result in a charge to the Authorized User for the Contractor's transportation costs. The Contractor must notify the Authorized User of the attempted delivery prior to charging for any future delivery attempts for the same circumstance. The Contractor must state the amount that would be charged for the direct cost of this subsequent

delivery attempt, and provide supporting documentation that substantiates the direct cost for the failed delivery at the fault of the Authorized User. The Authorized User must agree in writing to any such costs for subsequent delivery attempts, prior to the Contractor making the subsequent delivery. At no time should a charge be applied to an Authorized User for an attempted delivery that failed at no fault of their own.

AUTOMATIC REPLENISHMENT

Requests for automatic replenishment are preferred in WRITING from an Authorized User, and may be required by the Contractor. Subsequent WRITTEN notification back from the Contractor, will establish automatic replenishment for tanks equal to or larger than 1,000 gallons. Automatic replenishment for tank capacities less than 1,000 gallons will be at the Contractor's option. If an Authorized User has not received written notification for automatic replenishment from the Contractor, a minimum order charge may apply (see Section Minimum Order).

Determination for total gross tank capacity shall include all manifolded tanks.

If the Contractor, after having accepted the request from an Authorized User and provided written notification back to the Authorized User for automatic replenishment, permits the level of the fuel to fall below the percentages of the total capacity of the purchaser's tank or tanks indicated in the following table, the purchaser shall have the right to purchase sufficient fuel on the open market to fill such tank or tanks and to charge any increase in price paid over the current contract price to the account of the Contractor.

MINIMUM LEVEL	TOTAL TANK CAPACITY/GALS
10%	500 TO 5,500
15%	5,501 – AND OVER

The minimum order size of 500 gallons stipulated in Section Minimum Order shall not apply to deliveries being made to Authorized Users on an automatic delivery schedule as the contractor controls the frequency, delivery dates, and quantities of the deliveries being made.

DELIVERY SCHEDULES

The delivery schedules, based on Authorized Users' requirements submitted to Procurement Services by Requirement Letter RL213, are available as a guide to indicate proposed delivery points and estimated annual quantities. This information is available to clarify delivery conditions, where possible. Any specific questions regarding the site conditions should be directed to the end-user via any communication available, as shown on the Delivery Schedule. The delivery schedules are attachments in this Contract, and any updates (if any) are available on the OGS website.

Contractor shall be obligated to deliver under the Contract to any State agency which places a purchase order under the Contract, whether or not such delivery location is identified in the delivery schedules. Any political subdivision or other non-State entity which did not file a requirement with OGS as of the date of the Solicitation, shall be eligible to receive deliveries and/or be added to the Delivery Schedule at Contractor's option. This being done upon placement of a valid purchase order (or other ordering mechanism between the contractor and the ordering entity) to the Contractor's address as indicated in the award. Contractors must notify OGS of any new business created from Authorized Users request for delivery so that OGS Procurement Services can make adjustments to the delivery schedules to capture these new accounts. All cases shall require Contractors to notify both contract user and OGS of any locations not identified on the Delivery Schedule within 30 days after the first delivery. See Section New Accounts.

At any time during the Contract term, Contractor may be advised in writing by OGS regarding political subdivisions or other Non-State entities which have filed on a timely basis but do not appear, through no fault of their own, on the delivery schedules.

Filed requirements and delivery schedules may be updated by OGS for any mutually agreed upon extension.

NOTE: On occasion entities may appear on the wrong delivery schedule as entities self-report. For example, a non- State entity may appear on the Agency schedule on occasion or vice versa. OGS does review and seek clarification of information on the delivery schedules but does not catch all errors.

PRODUCT RETURNS AND EXCHANGES

In addition to the provisions of Appendix B Sections 34 through 36, *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 ten (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 thirty (30) calendar days of demand.

GUARANTEE

The Contractor guarantees to furnish adequate protection from damage to Authorized User's buildings, grounds and/or equipment occurring on account of or in connection with, or occasioned by, or resulting from the furnishing and delivering of fuel under the resultant Contract and shall be liable for any damages for which he or his employees are responsible.

This liability includes but is not limited to oil spills occurring during delivery. The Contractor shall provide constant surveillance during delivery by having a person in attendance at all times at the point of transfer. Spills of any size shall be immediately reported to the agency Business Office to effect contact with a representative of the Department of Environmental Conservation. More information can be viewed at: <http://www.dec.ny.gov/chemical/8428.html>

A call can be placed twenty-four (24) hours a day with the New York State Oil Spill Hotline at 1-800-457-7362.

ENGINEERING SERVICE

Contractor must be prepared at all times to furnish engineering service when so requested and/or to investigate a complaint and report to the Authorized User and OGS on any complaint that might arise in connection with the use of Contractor's fuel in Authorized User(s) equipment. This engineering service will include but not be limited to the diagnosis of fuel related engine problems in the Authorized User's equipment utilizing the Contractor's fuel.

**State of New York
Office of General Services
PROCUREMENT SERVICES
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

 _____ (over)

Agency: _____ Prepared by: _____
 Address: _____ Title: _____
 _____ Date: _____
 _____ Phone: _____
 _____ E-mail: _____

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 38th Fl, Corning Tower, ESP
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