



Contract Award Notification

Title	:	Group 31555 Comprehensive Liquid Bituminous Materials (Asphalt Emulsions, Chip Seal, Cold Recycling, Heater Scarification, Joint & Crack Filler/Sealer, Microsurfacing and/or Quick Set Slurry Seal, and Paver Placed Surface Treatment – Conventional & Modified) (Statewide) Classification Code(s): 30
Award Number	:	23250 (Replaces Award 23188)
Contract Period	:	April 1, 2022 to March 31, 2024
Bid Opening Date	:	December 16, 2021
Date of Issue	:	April 1, 2022
Specification Reference	:	SPEC – 940 date of issue October 30, 2019
Contractor Information	:	Appears on Page 5-14 of this Award

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**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

Liquid Bituminous Materials are divided in several groups: Asphalt Emulsions, Joint & Crack Filler/Sealer and several pavement preventive/corrective maintenance treatments including Chip Seal, Cold Recycling, Heater Scarification, Microsurfacing and/or Quick Set Slurry Seal and Paver Placed Surface Treatment.

This award has a total of 0% participation goals for MWBE and SDVOB.

PR # [23250](#)

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ATTACHMENTS

Lot 1 - Asphalt Emulsions Price Pages and Quick Quote

Lot 2 - Chip Seal Price Pages and Quick Quote

Lot 3 - Cold Recycling Price Pages and Quick Quote

Lot 4 - Heater Scarification Price Pages and Quick Quote

Lot 5 - Microsurfacing and/or Quick Set Slurry Seal Price Pages and Quick Quote

Lot 6 - Paver Placed Surface Treatment (Conventional and Modified) Price Pages and Quick Quote

Lot 7 - Joint & Crack Filler/Sealer and Mastic Repair Material Price Pages and Quick Quote

Note: All these documents can be found at:

<http://online.ogs.ny.gov/purchase/spg/awards/3155523250Can.htm>

SECTION 1: CONTRACTOR INFORMATION

1.1 CONTRACTOR INFORMATION

NOTE: See individual contract items to determine actual awardees.

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69531	ALL STATES CONSTRUCTION, INC dba ALL STATES ROADWAY CONSTRUCTION 325 Amherst Road, PO Box 91 Sunderland, MA, 01375	Toll-Free #: 800-343-9620 Phone #: 413-665-7021 x2430 Contact: Alan L. Chicoine E-mail: achicoine@asmg.com Web Site: www.asmg.com	04-2216868 1000011021
	Business hours:	8:00am – 5:00pm (M-F)	
		<u>Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:</u>	
		Toll-Free #: 866-322-2764 Phone #: 866-322-2764 Contact: Jason Massey E-mail: jasonm@asmg.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69532	BOTHAR CONSTRUCTION, LLC 170 East Service Road	Phone #: 607-343-5407	16-1570429
SB	Binghamton, NY 13901	Contact: James E. O'Brien Jr. E-mail: jimjr@botharconst.com Web Site: www.botharconst.com	1000008391
	Business hours:	8:00am – 5:00pm (M-F) 8:00am – 5:00pm (Sat, Sun)	
		<u>Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:</u>	
		Phone #: 607-723-5012 x207 Contact: James E. O'Brien Jr. E-mail: jimjr@botharconst.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69533	CALLANAN INDUSTRIES, INC. PO Box 15097 Albany, NY 12212-5097	Toll-Free #: 800-446-8649 x2 Phone #: 518-225-2539 Contact: James Elacqua E-mail: james.elacqua@callanan.com Web Site: www.callanan.com	14-1539261 1000027416
	Business hours: 7:00am – 5:00pm (M-F) Open Seasonally (Sat, Sun)– Contact First		
	<i>Accepts NYS Procurement Card.</i>		
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays: Toll-Free #: 800-446-8649 x72742 Phone #: 518-225-2539 Contact: James Elacqua E-mail: james.elacqua@callanan.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69534	COBLESKILL STONE PRODUCTS, INC. 112, Rock Road, PO Box 220 Cobleskill, NY 12043	Phone #: 518-365--1736 Contact: Mike Moore E-mail: mmoore@cobleskillstone.com	14-1646795 1000006949
	Business hours: 6:00am – 4:30pm (M-F) 7:00am – 12:00 noon (Sat)		
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays: Phone #: 518-365-1736 Contact: Mike M. Moore E-mail: mmoore@cobleskillstone.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69535	CRAFCO, INC. 6165 West Detroit Street Chandler, AZ 85226	Toll-Free #: 800-528-8242 Phone #: 610-264-7541 Contact: David Adams E-mail: david.adams@crafco.com Web Site: www.crafco.com	86-0324978 1000009735
Business hours: 8:00am – 5:00pm (M-F)			
<i>Accepts NYS Procurement Card for orders up to \$50,000.</i>			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Toll-Free #: 800-528-8242 Phone #: 518-937-6956 Contact: Anthony Simone E-mail: anthony.simone@crafco.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69536	GORMAN BROS., INC. 200 Church Street Albany, NY 12202	Toll-Free #: 800-332-7795 Phone #: 518-462-5401 Contact: Michael Ryan E-mail: mryan@gormanroads.com Web Site: www.gormanroads.com	14-0704840 1000013676
Business hours: 8:30am – 4:30pm (M-F)			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Toll-Free #: 800-332-7795 Phone #: 518-462-5401 Contact: Michael Ryan E-mail: mryan@gormanroads.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69537	HIGHWAY REHABILITATION CORP. 2258 Route 22	Phone #: 845-278-9645	22-2355196
SB	Brewster, NY 10509	Contact: Christine Magee E-mail: chris@highwayrehab.com Web Site: www.highwayrehab.com	1000057419
		Business hours: 8:30am – 5:30pm (M-F)	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 845-721-6008	
		Contact: Terence Lucey	
		E-mail: terry@highwayrehab.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69538	JULIEANN SHOVE, INC. dba CHAMPION ASPHALT MAINTENANCE		20-5160209
SB	5724 Eddy Ridge Road Williamson, NY 14589	Phone #: 315-589-7953 Contact: Deborah A. Shove E-mail: championasphalt7953@yahoo.com Web Site: www.championasphaltny.com	1000044369
		Business hours: 8:00am – 4:00pm (M-F)	
		<i>Accepts NYS Procurement Card for orders from \$20,000 up to \$50,000.</i>	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 315-589-7953	
		Contact: Deborah A. Shove	
		E-mail: championasphalt7953@yahoo.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69539	MAXWELL PRODUCTS, INC. 650 South Delong Street Salt Lake City, UT 84104	Phone #: 518-450-9820 Contact: Rick Stone E-mail: rstone@maxwellproducts.com Web Site: www.maxwellproducts.com	87-0319315 1100150193
Business hours: 8:00am – 5:00pm Mtn (M-F)			
<i>Accepts NYS Procurement Card for orders up to \$50,000.</i>			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Phone #: 518-450-9820 Contact: Rick Stone E-mail: rstone@maxwellproducts.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69540	MIDLAND ASPHALT MATERIALS, INC. 640 Young Street Tonawanda, NY 14150	Phone #: 716-692-0730 x4418 Contact: Tim McNally E-mail: tmcnally@midlandasphalt.com Web Site: www.midlandasphalt.com	26-0038619 1000017447
Business hours: 8:00am – 4:30pm (M-F)			
<i>Accepts NYS Procurement Card for orders up to \$50,000.</i>			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Phone #: 716-692-0730 x4418 Contact: Tim McNally E-mail: tmcnally@midlandasphalt.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69541	NEW ENGLAND ASPHALT SERVICES, LLC II 508 Forest Road Northford, CT 06472	Phone #: 845-522-2839 Contact: Shawn Thom E-mail: shawn@newenglandasphalt.com Web Site: www.newenglandasphalt.com	47-3176625 1100196756
		Business hours: 7:00am – 4:00pm (M-F)	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 845-522-2839 Contact: Shawn Thom E-mail: shawn@newenglandasphalt.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69542	NOEL J. BRUNELL & SON, INC. 3997 State Route 22 Plattsburgh, NY 12901	Phone #: 518-561-1290 Contact: Emilie M. Simoneau E-mail: emilie@brunellasphalt.com	14-1456087 1000051434
		Business hours: 8:00am – 5:00pm (M-F) 10:00am – 12:00pm (Sat)	
		<i>Accepts NYS Procurement Card for orders up to \$10,000.</i>	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 518-788-6853 Contact: Emilie M. Simoneau E-mail: emilie@brunellasphalt.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69543	PECKHAM MATERIALS, CORP. 763 Schoharie Turnpike Athens, NY 12015	Phone #: 518-945-1120 x250 Contact: Jeri Camputaro E-mail: jcamp@peckham.com Web Site: www.peckham.com	14-1470013 1000006732
Business hours: 8:00am – 4:30pm (M-F)			
<i>Vendor offers prompt payment discount: 1% / 10 days.</i>			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Phone #: 518-222-6681 Contact: Scott Pooters E-mail: spoot@peckham.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69544	PECKHAM ROAD CORP. 438 Vaughn Road Hudson Falls, NY 12839	Phone #: 518-792-3157 Contact: Tyler Pratt E-mail: prc@peckham.com Web Site: www.peckham.com	13-3493213 1000006385
Business hours: 8:00am – 4:00pm (M-F)			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Phone #: 914-357-1842 Contact: Gregory Peckham E-mail: gregory@peckham.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69545	SEALCOAT USA, INC. 79 Pembroke Drive Yonkers, NY 10710	Phone #: 914-439-3186 Contact: Ryan Landeck E-mail: ryan.landeck@gmail.com Web Site: www.sealcoatusa.com	30-0309733 1100003000
SB			
Business hours: 9:00am – 5:00pm (M-F & Sat, Sun)			
<i>Accepts NYS Procurement Card for orders up to \$50,000.</i>			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Phone #: 914-439-3186 Contact: Raymond Landeck			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69546	SEALCOATING, INC. dba INDUS 825 Granite Street Braintree, MA 02184	Phone #: 781-428-3403 Contact: April Durant E-mail: april.durant@indusinc.com Web Site: www.indusinc.com	04-3520246 1100086105
Business hours: 8:30am – 4:00pm (M-F)			
<i>Accepts NYS Procurement Card for orders from \$18,000 to \$50,000.</i>			
Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:			
Phone #: 781-589-1627 Contact: Dan Patenaude, P.E. E-mail: dan.patenaude@indusinc.com			

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69547	SUIT-KOTE CORPORATION 1911 Lorings Crossing Road Cortland, NY 13045	Toll-Free #: 800-622-5636 Phone #: 315-238-7053 x350 Contact: Michael Murphy E-mail: mmurphy@suit-kote.com Web Site: www.suit-kote.com	16-1177189 1000007846
		Business hours: 7:30am – 4:30pm (M-F)	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 607-591-9234 Contact: Joe Peronne E-mail: jperonne@suit-kote.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69548	THOS H GANNON & SONS, INC. 372 Middle Country Road	Phone #: 609-561-4161 x221	11-2280296 1000043171
SB	PO Box 505 Middle Island, NY 11953	Contact: Walter Percy, III E-mail: wpercyiii@asphaltpavingsystems.com Web Site: www.asphaltpavingsystems.com	
		Business hours: 7:00am – 5:00pm (M-F)	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 516-903-7022 Contact: Pat Austin E-mail: paustin01@hotmail.com	

<u>Contract #</u>	<u>Contractor Name & Address</u>	<u>Contact Information</u>	<u>Fed ID#/NYS Vendor ID#</u>
PC69549	VESTAL ASPHALT, INC. 201 Stage Road	Phone #: 607-341-3383	16-1201418
SB	Vestal, NY 13850	Contact: Chris Musser E-mail: dispatch@vestalaspalt.com Web Site: www.vestalaspalt.com	1000007868
		Business hours: 7:00am – 5:00pm (M-F)	
		Person to contact in the event of an emergency occurring after normal business hours or on weekend/holidays:	
		Phone #: 607-341-2667	
		Contact: Jim Unkel	
		E-mail: contracts@vestalaspalt.com	

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

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.

SECTION 1: CONTRACTOR INFORMATION (Cont'd)

1.2 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.

1.3 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

1.4 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).

SECTION 1: CONTRACTOR INFORMATION (Cont'd)

1.5 ESTIMATED QUANTITIES:

A Contract resulting from this Solicitation shall be an estimated quantity Contract. 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. The anticipated dollar value of the award for this Solicitation, based on historical purchases under previous awards, is approximately \$41,000,000.00 annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. 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.

Numerous factors could cause the actual quantities of Products purchased under a Contract resulting from this Solicitation to vary substantially from the estimates in the Solicitation.

Such factors include, but are not limited to, the following:

- Such Contracts may be non-exclusive Contracts.
- There is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases.
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand and actual quantities ordered during the contract period.
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.
- Contract pricing that is lower than anticipated could result in a higher quantity of purchases by Authorized Users than anticipated.
- Contract pricing that is higher than anticipated could result in a lower quantity of purchases by Authorized Users than anticipated.

By submitting a Bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this Solicitation.

SECTION 2: HOW TO USE THE CONTRACT

2.1 INTRODUCTION – IMPORTANT NOTE

Using Agencies and Political Subdivisions can choose **any of the contractors listed in this Contract Award Notification (Pages 5-14)**. Contractors not listed in this Contract Award Notification cannot be chosen or included in the Quick Quote process involving a purchase through this particular contract. Also the only items that can be purchased through this contract are the one listed in the price pages.

To look for a specific Liquid Bituminous Material Treatment, please refer to the price pages which are published as attachments on our website. These price pages contain the maximum price that the contractor can charge for each item.

2.2 QUICK QUOTE PROCESS

Authorized Users must select the appropriate contractor to perform their particular project by using the quick quote worksheet form.

During the course of selecting and awarding one of the contractors listed in this contract, Authorized Users are required to use the Quick Quote process to try to obtain lower prices. Contractors may wish to lower their contract prices for various reasons, i.e., excess supply, slow business, etc. Each quick quote situation is unique and the price is firm for that particular project only. If Bid security is a concern, the Authorized User may require Bids to be sealed and/or opened publicly.

The use of the Quick Quote Worksheet is MANDATORY for all purchases made by any Authorized User through the Contract(s) resulting from this IFB, with the only exception being for cases where the material is being picked up by the Authorized User at the plant, in which case the use of the Quick Quote is optional (at the Authorized User's discretion).

The Quick Quote form will be published at the NYS OGS website (at the contract's landing page) once the contract is awarded.

The Quick Quote Worksheet should be sent to the contractors in its MS Excel format. The contractor at that point should quick quote every single line item that the Authorized User is requesting. If the Price Pages published by OGS show a No Bid or a No Award for one of those Contractor's line items, that Contractor won't be able to bid the entire Quick Quote. Under those circumstances, if a Quick Quote is received, the Authorized User should reject it.

Agencies using the quick quote are required to award to the lowest responsive Bid meeting the Authorized User's requirements outlined in the requested quote. There are no negotiations permitted following the "Quick Quote" and prices cannot be changed once offered. If award is made to other than the lowest Bid, the Authorized User must prepare detailed documentation explaining the action taken for the failure to meet requirements. (i.e., the low contractor could not provide the product in the time frame required, contractor did not have needed equipment, etc.). This explanation along with the worksheets must be made a part of the procurement record.

Contractors are not required to lower prices when they receive a quick quote. They may quote the contract price. However, **at no time may a quick quote unit price (without the Price Adjustment) exceed the contract price. Materials cost, hauling expenses, etc., can be lowered by the contractor during the quick quote process.**

Since asphalt price adjustments will be charged/credited to all invoices (after the work is finished), the Authorized User and the contractor understand that the Project's Total Cost shown in the Quick Quote includes all the needed Price Adjustments for the month indicated in the Quick Quote (the month when the Quick Quote was sent to the Contractor). If the project (or part of the project) is executed in a different month than the one used to calculate the Quick Quote, then the Project's Total Cost will change accordingly to reflect the Price Adjustments for the Month in which the project (or part of the project) was actually performed.

SECTION 2: HOW TO USE THE CONTRACT (Cont'd)

2.3 FREQUENTLY ASKED QUESTIONS

May I buy from any contractor or do I have to choose only from the contractors listed in my DOT Region?

Using Agencies and Political Subdivisions can choose any of the contractors listed in this Contract Award Notification, without restrictions.

Is it allowed for a contractor listed in this Award to increase the price included in this Contract Award Notification?

At no time may a unit price (without the Price Adjustment) for a specific item exceed the unit price shown in this Contract Award Notification. However, the user should be aware that this unit price doesn't include the proper Price Adjustment(s) set by the pricing information clause for that treatment and the contractor is within his/her right to ask for that Price Adjustment.

Is the Quick Quote Worksheet mandatory when using this contract?

The use of the Quick Quote Worksheet will be MANDATORY for all purchases made by any Executive Agency through the Contract(s) contained in this Contract Award Notification, with the only exception for cases where the material is being picked up by the user (at the plant). In those cases, the use of the Quick Quote will be optional (at the user's discretion).

OGS also encourages the use of the Quick Quote by Non- Executive Agencies as a way to get the best pricing possible.

2.4 PREVAILING WAGE RATES – PUBLIC WORKS AND BUILDING SERVICES CONTRACTS

Work being bid is subject to the prevailing wage rate provisions of New York State Labor Law. See "Prevailing Wage Rates - Public Works and Building Services Contracts" in Appendix B, OGS General Specifications. Any federal or State determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful" may be grounds for a determination of vendor non-responsibility, rejection of Bid, suspension or termination of Contract.

IMPORTANT NOTE: Authorized Users MUST obtain a separate PRC # for each purchase from this contract where prevailing wage rates apply. The PRC # provided in this Bid is for information and evaluation purposes only.

For access to the Department of Labor (DOL) Prevailing Wage Schedule, use the following link:

<http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showIt>

For Prevailing Wage Updates, use the following DOL link:

<http://wpp.labor.state.ny.us/wpp/publicViewPWChanges.do?method=showIt>

Links to schedule updates appear in the table at the bottom of the web page.

SECTION 2: HOW TO USE THE CONTRACT (Cont'd)

Worker Notification

Labor Law § 220(3-a)(a)(ii) requires Contractors and subcontractors to provide written notice to all laborers, workers or mechanics of the *prevailing wage rate* for their particular job classification *on each pay stub*. It also requires Contractors and subcontractors to *post a notice* at the beginning of the performance of every public work Contract *on each job site* that includes the telephone number and address for the Department of Labor and a statement informing laborers, workers or mechanics of their right to contact the Department of Labor if he/she is not receiving the proper prevailing rate of wages and/or supplements for his/her particular job classification. The required notification will be provided with each wage schedule and may be downloaded from <https://dol.ny.gov/> or made available upon request by contacting the Bureau of Public Work at 518-457-5589. In the event that the required information will not fit on the pay stub, an accompanying sheet or attachment of the information will suffice.

OSHA 10-Hour Construction Safety and Health Course

Labor Law § 220-h requires that on all public work contracts of at least \$250,000, all laborers, workers, and mechanics working on site be certified as having successfully completed the OSHA 10-hour construction safety and health course. It further requires that the advertised Bids and contracts for every public work contract of at least \$250,000 contain a provision of the requirement AND only applies to workers on a public work project that are required under Article 8 to receive the prevailing wage.

Further information may be found at: <https://dol.ny.gov/workforce-protections>.

Living Wage

An Authorized User subject to a local law establishing a “living wage,” such as Section 6-109 of the New York City Administrative Code, is required to ensure the Contractor sought to be hired complies with such local law. If the pay rate(s) for a job title(s) as set forth in Appendices 7 through 13 – Price Pages is less than the local law “living wage,” then the Authorized User subject to such local law cannot use this Contract for such job title(s). Local laws, however, are not a term and condition of the OGS contract.

SECTION 3: PRICE PAGES and SPECIFICATIONS

3.1 PRICE PAGES

See Price Pages for all Lots at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155523250Can.htm>

Lot 1 – Asphalt Emulsions

Lot 2 – Chip Seal

Lot 3 – Cold Recycling

Lot 4 – Heater Scarification

Lot 5 - Microsurfacing and/or Quick Set Slurry Seal

Lot 6 - Paver Placed Surface Treatment – Conventional & Modified

Lot 7 - Joint & Crack Filler/Sealer and Mastic Repair Material

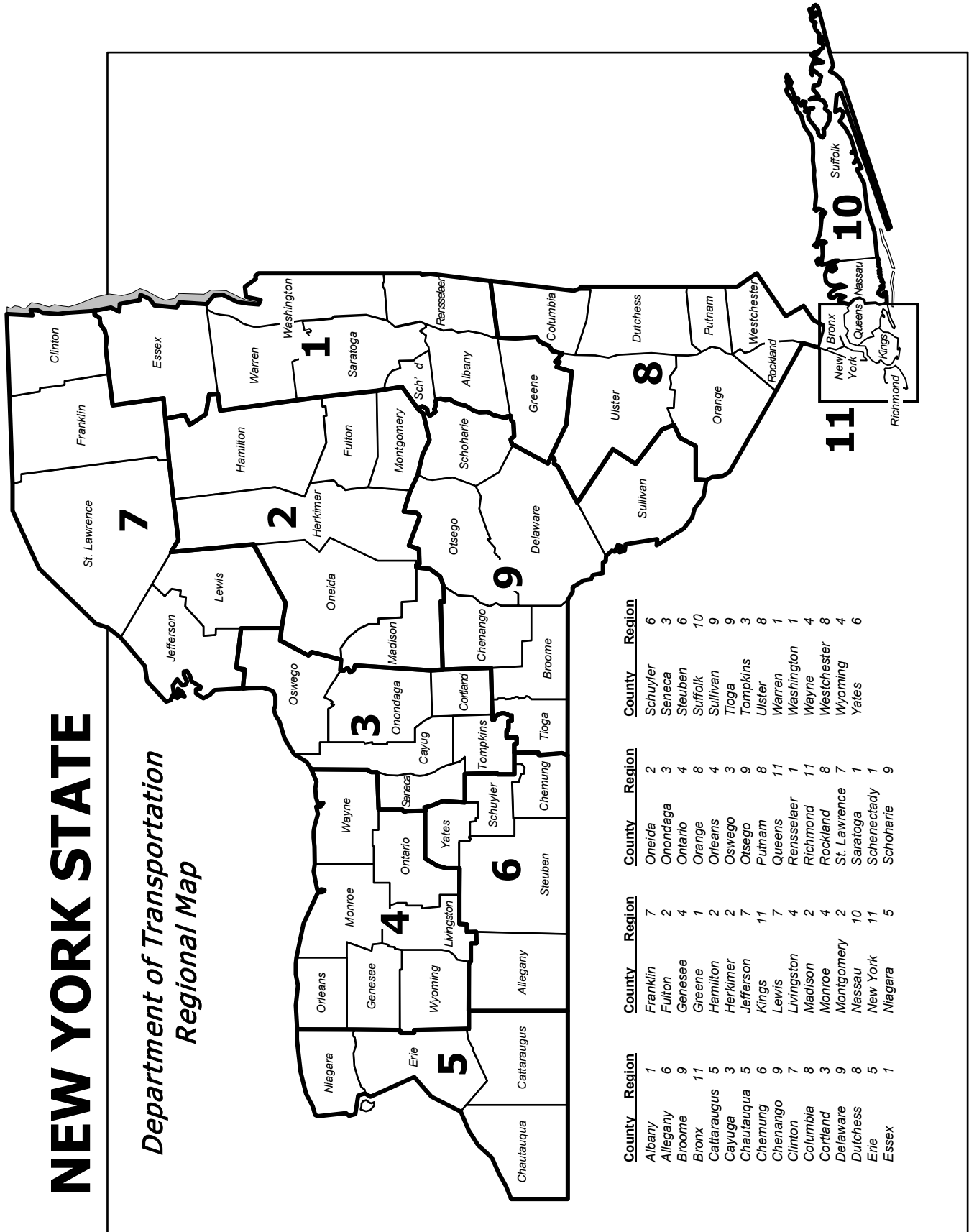
3.2 SPECIFICATIONS

- Detailed Specifications – Liquid Bituminous Materials
- General Specifications
- Group Specification #940
- Insurance
- NYSDOT Standard Specifications, Construction and Materials
- NYSDOT Work Zone Traffic Control Drawings

Note: All these documents can be found at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155523250Can.htm>

SECTION 4: NYSDOT REGIONAL MAP



NEW YORK STATE

Department of Transportation
Regional Map

County	Region	County	Region	County	Region	County	Region
Albany	1	Franklin	7	Onida	2	Schuyler	6
Allegany	6	Fulton	2	Onondaga	3	Seneca	3
Broome	9	Genesee	4	Ontario	3	Steuben	6
Bronx	11	Greene	1	Orange	8	Suffolk	10
Cattaraugus	5	Hamilton	2	Orleans	4	Sullivan	9
Cayuga	3	Herkimer	2	Oswego	3	Tioga	9
Chautauqua	5	Jefferson	7	Otsego	9	Tompkins	3
Chemung	6	Kings	11	Putnam	8	Ulster	8
Chenango	9	Lewis	7	Queens	11	Washington	1
Clinton	7	Livingston	4	Rensselaer	1	Wayne	4
Columbia	8	Madison	2	Richmond	11	Westchester	8
Cortland	3	Monroe	4	Rockland	8	Wyoming	4
Delaware	9	Montgomery	2	St. Lawrence	7	Yates	6
Dutchess	8	Nassau	10	Saratoga	4		
Erie	5	New York	11	Schenectady	1		
Essex	1	Niagara	5	Schoharie	9		

SECTION 5: CONTRACT ADMINISTRATION

5.1 CONTRACT ADMINISTRATOR

The contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to Authorized User needs and who can effectively service the Contract. Contractor shall also provide an Emergency Contact in the event of an emergency occurring after business hours or on weekend/holidays.

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Contractor must notify OGS within five (5) Business Days if its Contract Administrator, Emergency Contact, or Customer Service employees change and provide an interim contact person until the position is filled. Changes shall be submitted electronically via e-mail to the OGS Contract Management Specialist.

SECTION 6: TERMS AND CONDITIONS

6.1 CONTRACT TERM AND EXTENSIONS

The Contract will be in effect for a term of two (2) years. The Contract term shall commence after all necessary approvals and shall become effective upon the date of OSC approval of the final executed documents.

All OGS Centralized Contracts resulting from this Solicitation shall have a co-terminus end date. At the State's option, the Contract may be extended for an additional period of up to three (3) years, in increments as deemed to be in the best interest of the State. Whether the optional extensions are exercised is at the sole discretion of the State. A Contractor shall retain the right to decline a Contract extension offered under this section. Any Contract extension will be under the same terms and conditions, subject to the approval of OSC and any additional applicable statutory and policy requirements. Any extensions provided under this section shall apply in addition to any rights set forth in Appendix B, *Contract Term – Extension*.

The Contract term provided for in this section shall extend 6 months beyond its termination date only for Authorized Users whose contracts must be registered with the Office of the New York City Comptroller. During the 6-month period the definition of Authorized User shall be deemed to refer only to Authorized Users whose contracts must be registered with the Office of the New York City Comptroller. This extension is in addition to any other extensions available under the Contract. The extension provided for in this paragraph shall be upon the then-existing terms and conditions; provided, however, during such extension an Authorized User, as defined in this paragraph, may agree to amend such terms and conditions solely to comply with changes in statutory requirements (e.g. changes in minimum, prevailing or living wages, or regulated services).

6.2 SHORT TERM EXTENSION

This section shall apply in addition to any rights set forth in Appendix B, *Contract Term – Extension*. In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State may be extended unilaterally by the State for an additional period of up to 30 calendar days upon notice to the Contractor with the same terms and conditions as the original Contract and any approved modifications. With the concurrence of the Contractor, the extension may be for a period of up to 90 calendar days in lieu of 30 calendar days. However, this extension automatically terminates should a replacement Contract be issued in the interim.

6.3 MATERIALS

All materials shall be provided from a NYSDOT approved location. All materials shall comply with the specifications in the following specifications.

- General Specifications
- Detailed Specifications – Liquid Bituminous Materials
- Group Specifications #940
- New York State Department of Transportation Standard Specifications, Construction and Materials

6.4 PRICE ADJUSTMENTS

Price Adjustments will be allowed in accordance with the General Specifications.

6.5 PRICE REDUCTIONS

Contractors shall be permitted to reduce their pricing any time during the contract term. In addition, Contractors may choose to offer lower prices in specific instances or for particular projects. Contractors may do so through the use of the "Quick Quote" worksheet.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.6 BEST PRICING OFFER

During the Contract term, if the Commissioner becomes aware that the Contractor is selling substantially the same or a smaller quantity of a Product outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, after consultation with the Contractor, may be reduced to a lower price on a prospective basis at the discretion of the Commissioner. The Commissioner reserves the right to request information to verify pricing for the purposes of this clause.

6.7 PRICE STRUCTURE

If, during the Contract Term, the Contractor is unable or unwilling to meet contractual requirements in whole or in part based on the price structure of the Contract, it shall immediately notify the Office of General Services, Procurement Services in writing. Such notification shall not relieve the Contractor of its responsibilities under the Contract. The State may, but is not required to, consider an equitable adjustment in the Contract terms and/or pricing in the circumstances outlined in Appendix B, *Savings/Force Majeure*.

Should the Commissioner in his or her sole discretion determine during the Contract Term that (i) the Contract price structure is unworkable, detrimental, or injurious to the State, or (ii) the Contract price structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, and no adjustment in the Contract terms and/or pricing is mutually agreeable, the State may terminate the Contract upon 10 business days written notice mailed to the Contractor.

6.8 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).

6.9 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.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

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 (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/nys-vendors>.

6.10 PRODUCT DELIVERY

Delivery of all Contract Products shall be made in accordance with Appendix B, *Product Shipping/Receipt of Product*.

Delivery shall be made in accordance with instructions on Purchase Order from each agency. 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 agency and, if applicable, from the Office of General Services – Procurement Services. It is the responsibility of the agency to ascertain quantities shipped are accurate to the delivery ticket. Each vehicle should be checked for product upon arrival and prior to departure.

6.11 NYS FINANCIAL SYSTEM (SFS)

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS is currently on PeopleSoft Financials version 9.2. SFS supports requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State Agencies to procure Products in SFS. This application provides catalog capabilities. Contractors with Centralized Contracts have the ability to provide a "hosted" or "punch-out" catalog that integrates with SFS and is available to Authorized Users via a centralized eMarketplace website. Additional information may be found at: <https://ogs.ny.gov/procurement/emarketplace>.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

There are no fees required for a Contractor's participation in the catalog site development or management. Upon completion and activation of an on-line catalog, State Agencies will process their orders through the SFS functionality and other Authorized Users can access the catalog site to fulfill orders directly.

The State may be implementing additional PeopleSoft modules in the near future. Further information regarding business processes, interfaces, and file layouts currently in place may be found at: <http://www.sfs.ny.gov> and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

6.12 INSURANCE

The Contractor shall maintain in force at all times during the terms of the Contract, policies of insurance pursuant to the requirements outlined in the Insurance Requirements document.

6.13 REPORT OF CONTRACT USAGE

Contractor shall submit Attachment – *Report of Contract Usage* including total sales to Authorized Users of this Contract by Contractor. The three (3) reports *Delivery* and are due no later than fifteen (15) days after the end of each report period as follows:

Report	From	To	Report Due Before
1 st	04/01/2022	12/31/2022	01/15/2023
2 nd	01/01/2023	08/31/2023	09/15/2023
3 rd	09/01/2023	03/31/2024	04/15/2024

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 – *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 the Contractor as non-responsible.

6.14 MWBE 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

I. New York State Law

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”), the New York State Office of General Services (“OGS”) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises (“MWBES”) and the employment of minority group members and women in the performance of OGS contracts.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

II. General Provisions

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for MWBEs. Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, State, or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

III. Equal Employment Opportunity (EEO)

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.
 - 1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.
 - 2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor’s equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

B. Form EEO 100 – Staffing Plan

To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

- C. NYS Contract System Workforce Utilization Reporting Module (Commodities & Services)
1. The Contractor shall complete and shall require each of its subcontractors to complete a Workforce Audit on a quarterly basis throughout the term of this Contract, by the 10th day of April, July, October, and January. To report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. Contractor shall coordinate with its subcontractors to ensure that all workers associated with this Contract are properly counted and reported. To prepare the report, Contractor and its subcontractors shall use the NYS Contract System Workforce Audit Module found at the following website: <https://ny.newnycontracts.com>.
 2. Separate audits shall be completed by Contractor and all subcontractors utilized on this contract and the Contractor is responsible for ensuring timely submission of the Workforce Audit by their subcontractors.
 3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall complete the Workforce Audit and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall complete the Workforce Audit and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.
- D. Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. Contract Goals

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.
- B. Good Faith Efforts
- Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:
1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

2. A list of the certified MWBEs appearing in the Empire State Development (“ESD”) MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

V. Fraud

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD’s Division of Minority and Women’s Business Development at (855) 373-4692.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/MWBE>

Vendor must scroll down to the section titled COMMODITY & SERVICE CONTRACTS and use the appropriate forms under this section only.

6.15 SDVOB PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>.

Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteranDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/Veterans/>

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.16 USE OF RECYCLED OR REMANUFACTURED MATERIALS

New York State supports and encourages Contractors to use recycled, remanufactured or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health or safety requirements or Product specifications contained herein. Refurbished or remanufactured components or Products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this Solicitation. Warranties on refurbished or remanufactured components or Products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, *Remanufactured, Recycled, Recyclable or Recovered Materials*.

6.17 BULK DELIVERY AND ALTERNATE PACKAGING

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A Contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the Product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

6.18 ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4

New York State is committed to environmental sustainability and endeavors to procure Products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring Products. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <https://ogs.ny.gov/greenyny/>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

6.19 "OGS OR LESS" GUIDELINES

Purchases of the Products included in the Solicitation and resulting Contract 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 Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

6.20 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.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

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://online.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.

6.21 EXTENSION OF USE

Any Contract resulting from this Solicitation 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.

6.22 DRUG AND ALCOHOL USE PROHIBITED

For reasons of safety and public policy, in any Contract resulting from this Solicitation, the Contractor's personnel shall not be impaired by alcohol or drugs of any kind in the performance of the Contract.

6.23 TRAFFIC INFRACTIONS

Neither the State nor Authorized Users will be liable for any expense incurred by the Contractor's personnel for any parking fees or as a consequence of any traffic infraction or parking violation attributable to employees of the Contractor in performance of the Contract.

6.24 SAMPLES

A. **Bidder Supplied Samples** - The Commissioner reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a Contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of the Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Solicitation or Contract reference.

A sample may be held by the Commissioner during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period, the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Commissioner as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

B. **Enhanced Samples** - When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Commissioner may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

C. **Conformance with Samples** - Submission of a sample (whether or not such sample is tested by, or for, the Commissioner) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Solicitation. If in the judgment of the Commissioner the sample or Product submitted is not in accordance with the specifications or testing requirements prescribed in the Solicitation, the Commissioner may reject the Bid. If an award has been made, the Commissioner may cancel the Contract at the expense of the Contractor.

- D. **Testing** - All samples are subject to tests in the manner and place designated by the Commissioner, either prior to or after Contract award. Unless otherwise stated in the Solicitation, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fail to meet Contract requirements may be at the expense of the Contractor.
- E. **Requests for Samples by Authorized Users** - Requests for samples by Authorized Users require the consent of the Contractor. Where Contractor refuses to furnish a sample, Authorized User may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

**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: _____

Please detach or photocopy this form & return via email to Christine.Dettmer@ogs.ny.gov or mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Attn: Christine Dettmer
Corning 2nd Tower - Empire State Plaza
Albany, New York 12242

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