



# Contract Award Notification

<b>Title</b>	:	<b>Group 31555 Comprehensive Liquid Bituminous Materials (Statewide)</b>  (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)  Classification Code(s): 30
<b>Award Number</b>	:	<a href="#">23334</a> (Replaces Award 23250)
<b>Contract Period</b>	:	Upon OSC Approval to March 31, 2026
<b>Bid Opening Date</b>	:	December 21, 2023
<b>Date of Issue</b>	:	April 22, 2024 (Revised 08/13/2025)
<b>Specification Reference</b>	:	SPEC-947 date of issue November 14, 2023
<b>Contractor Information</b>	:	Appears starting on Page 4 of this Award

<b>Address Inquiries To:</b>	
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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 goal requirements for MWBE and SDVOB.

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**SECTION 1: CONTRACTOR INFORMATION**

**1.1 Contractor Information**

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin/Orders</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70336	All States Construction, Inc. d/b/a Gorman Construction 200 Church Street Albany, NY 12202	Toll Free #: 800-332-7795 Phone #: 518-462-5401 x109 Contact: Kayla Bessette Email: kbessette@asmg.com Website: www.asmg.com	04-2216868 1000011021
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>Emergency / Weekends/Holidays</u></b>			
Phone #: 518-932-8676 Contact: Kayla Bessette Email: kbessette@asmg.com			
<b>Business Hours: 8:00AM – 4:30PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70337 WBE SB	AnnSeal, Inc. 130 Main Street Johnson City, NY 13790	Phone #: 607-797-3737 Contact: Nancy O'Brien Email: nobrien@annseal.com	03-0435899 1000005228
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #: 607-797-3737 Contact: Michael Motsko Email: mmotsko@annseal.com		Phone #: 607-222-5815 Contact: Doug Luke Email: dluke@annseal.com	
<b>Business Hours: 9:00AM – 5:00PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70338 SB	Bothar Construction, LLC 170 East Service Road Binghamton, NY 13901	Phone #: 607-723-5012 x207 Contact: James E O'Brien Jr. Email: jimjr@botharconst.com	16-1570429 1000008391
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders/ Emergency / Weekends/Holidays</u></b>			
Phone #: 607-343-5407 Contact: James E. O'Brien Jr. Email: jimjr@botharconst.com			
<b>Business Hours: 8:00AM – 5:00PM (M-F, Sa-Sun)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70339	Callanan Industries, Inc PO Box 15097 Albany, NY 12212	Toll Free #: 800-446-8649 x72017 Phone #: 518-374-2222 x72017 Contact: Darlene Casale Email: drcasale@callanan.com Website:	14-1539261 1000027416
<i>Contractor accepts NYS Procurement Card orders for up to \$50,000</i>			
<b><u>NYS Contract Orders/ Emergency / Weekends/Holidays</u></b>			
Phone #: 518-225-2539 Contact: James Elacqua Email: james.elacqua@callanan.com			
<b>Business Hours: 7:00AM – 5:00PM (M-F) Seasonally open (Sa-Sun)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70340	Cobleskill Stone Products, Inc. 112 Rock Road, PO Box 220 Cobleskill, NY 12043	Phone #: 518-243-0221 Contact: Daniel Kleeschulte Email: dkleeschulte@cobleskillstone.com	14-1646795 1000006949
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #: 518-234-0221 Contact: Daniel Kleeschulte Email: dkleeschulte@cobleskill.com		Phone #: 518-234-0221 Contact: Michael Moore Email: mmoore@cobleskill.com	
<b>Business Hours: 7:00AM – 4:00PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70341	CRAFCO, Inc. 6165 West Detroit Street Chandler, AZ 85226	Toll Free #: 800-528-8242 Phone #: 602-276-0406 Contact: Debby Eddy Email: bids@crafco.com Website: www.crafco.com	86-0324978 1000009735
<i>Contractor accepts NYS Procurement Card orders for up to \$50,000</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #: 610-264-7541 Contact: David Adams Email: david.adams@crafco.com		Phone #: 518-937-6956 Contact: Anthony Simone Email: anthony.simone@crafco.com	
<b>Business Hours: 8:00AM – 5:00PM (M-F)</b>			

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70342	Fibrecrete Preservation Technologies, Inc. d/b/a FPT Infrastructure 401 Old US 52 South Mount Airy, NC 27030	Phone #: 330-705-3417 Contact: Marcy Ream Email: marcy.ream@fptinfrastructure.com Website: www.fptinfrastructure.com	81-2876617 1100250170
<i>Contractor accepts NYS Procurement Card for orders up to \$50,000.</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #:	336-469-4033	Phone #:	484-637-3518
Contact:	Gabrielle Allison	Contact:	Rich Bagenstose
Email:	gabrielle.allison@fptinfrastructure.com	Email:	rich.bagenstose@fptinfrastructure.com
<b>Business Hours: 7:00AM – 4:00PM (M-F)</b>			

**Note:**

**OGS has executed a contract assignment for (PC70343) Gorman Bros, Inc.**

**The contract has been assigned to (PC70336) All States Construction, Inc. DBA Gorman Construction**

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin/ NYS Contract Orders</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70343	Gorman Bros., Inc. 200 Church Street	Toll Free #: 800-332-7785 Phone #: 518-932-8676	14-0704840 1000013676

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin/ NYS Contract Orders</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70344 SB	Highway Rehabilitation Corp. 2258 Route 22 Brewster, NY 10509	Phone #: 845-206-5777 Contact: Christine Magee Email: chris@highwayrehab.com Website: www.highwayrehab.com	22-2355196 1000057419
<i>Contractor <u>does not</u> accept NYS Procurement Card Prompt payment discount of 2%/15 days</i>			
		<b><u>Emergency / Weekends/Holidays</u></b>	
		Phone #:	845-721-6008
		Contact:	Terence Lucey
		Email:	terry@highwayrehab.com
<b>Business Hours: 8:30AM – 5:30PM (M-F)</b>			

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70345 SB	Julieann Shove, Inc. d/b/a Champion Asphalt Maintenance 5724 Eddy Ridge Road Williamson, NY 14589	20-5160209 1000044369
Website: www.championasphalt.com		
<i>Contractor accepts NYS Procurement Card orders from \$20,000 to \$50,000.</i>		
<b><u>Contract Admin / NYS Contract Orders / Emergency / Weekends/Holidays</u></b>		
Phone #: 315-589-7953		
Contact: Deborah Shove		
Email: championasphalt7953@yahoo.com		
<b>Business Hours: 8:00AM – 4:00PM (M-F)</b>		

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70346	Maxwell Products, Inc. 650 South Delong Street Salt Lake City, UT 84104	Toll Free #: 800-266-2090 Phone #: 801-972-2090 Contact: Mitch Jones Email: mitch@maxwellproducts.com Website: www.maxwellproducts.com	87-0319315 1100150193
<i>Contractor accepts NYS Procurement Card for orders up to \$50,000</i>			
<b><u>NYS Contract Orders / Emergency / Weekends/Holidays</u></b>			
Phone #: 518-450-9820			
Contact: Rick Stone			
Email: rstone@maxwellproducts.com			
<b>Business Hours: 8:00AM – 5:00PM (M-F)</b>			

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70347	Midland Asphalt Materials, Inc. 640 Young Street Tonawanda, NY 14150	26-0038619 1000017447
Website: www.midlandasphalt.com		
<i>Contractor accepts NYS Procurement Card orders for up to \$50,000</i>		
<b><u>Contract Admin / NYS Contract Orders / Emergency / Weekends/Holidays</u></b>		
Phone #: 716-692-0730 x4418		
Contact: Tim McNally		
Email: tmcnally@midlandasphalt.com		
<b>Business Hours: 8:00AM – 4:30PM (M-F)</b>		

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70348	New England Asphalt Services, LLC II 508 Forest Road Northford, CT 06472	Phone #: 203-208-1378 Contact: Nancy Swiantek Email: nancy@newenglandasphalt.com Website:	47-3176625 1100196756
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders / Emergency / Weekends/Holidays</u></b>			
Phone #: 845-522-2839 Contact: Shawn Thom Email: shawn@newenglandasphalt.com			
<b>Business Hours: 7:00AM – 4:00PM (M-F)</b>			

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70349 WBE SB	Noel J Brunell & Son, Inc. 3997 State Route 22 Plattsburgh, NY 12901	14-1456087 1000051434
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>		
<b><u>Contract Admin / NYS Contract Orders / Emergency / Weekends/Holidays</u></b>		
Phone #: 518-561-1290 Contact: Emilie Simoneau Email: emilie@brunellasphalt.com		
<b>Business Hours: 8:00AM – 5:00PM (M-F)</b>		

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70350	P&T Products, LLC 472 Industrial Parkway Sandusky, OH 44870	Phone #: 419-621-1966 Contact: Jarred Limberios Email: jarredl@pntproducts.com Website: www.pntproducts.com	34-1601352 1100308056
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #: 419-621-1966 Contact: Jaime Rising Email: jaime@pntproducts.com		Phone #: 419-621-1966 Contact: Spencer Meyers Email: spencerm@pntproducts.com	
<b>Business Hours: 8:00AM – 4:00PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin / NYS Contract Orders</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70351	Peckham Materials Corp. 763 Schoharie Turnpike Athens, NY 12015	Phone #: 518-945-1120 Contact: Jeri Camputaro Email: jcamp@peckham.com Website: www.peckham.com	14-1470013 1000006732
<i>Contractor <u>does not</u> accept NYS Procurement Card Prompt payment discount 1% / 10 days</i>			
<b><u>Emergency / Weekends/Holidays</u></b>			
Phone #: 518-222-6681 Contact: Scott Pooters Email: spoot@peckham.com			
<b>Business Hours: 8:00AM – 4:30PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70352	Peckham Road Corp. 438 Vaughn Road Hudson Falls, NY 12839	Phone #: 518-792-3157 Contact: Dominique Bisignano Email: dbisi@peckham.com	13-3493213 1000006385
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #: 315-289-2868 Contact: Caleb Edelstein Email: prc@peckham.com		Phone #: 518-570-5437 Contact: Tyler Pratt Email: tprat@peckham.com	
<b>Business Hours: 8:00AM – 4:00PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70353 SB	Sealcoat USA, Inc. 79 Pembroke Drive Yonkers, NY 10710	30-0309733 1100003000
Website: www.sealcoatusa.com		
<i>Contractor accepts NYS Procurement Card for orders up to \$50,000.</i>		
<b><u>Contract Admin / NYS Contract Orders / Emergency / Weekends/Holidays</u></b>		
Phone #: 914-439-3186 Contact: Ryan Landeck Email: ryan.landeck@gmail.com		
<b>Business Hours: 24/7 (M-F)</b>		

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin / NYS Contract Orders</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70354	Sealcoating, Inc. d/b/a Indus 825 Granite Street Braintree, MA 02184	Phone #: 781-428-4303 Contact: April Durant Email: april.durant@indusinc.com Website: www.indusinc.com	04-3520246 1100086105
<i>Contractor accepts NYS Procurement Card for orders from \$18,000 to \$50,000.</i>			
<b><u>Emergency / Weekends/Holidays</u></b>			
Phone #: 413-262-7829 Contact: Art Baker Email: art.baker@indusinc.com			
<b>Business Hours: 8:30AM – 4:00PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70355 SB	Sealworks, Inc. d/b/a SealMaster 555 Ludwig Avenue Buffalo, NY 14227	Phone #: 716-891-4197 Contact: Conrad Kloc Email: conrad@sealmasterwny.com	84-4013212 1100249509
<i>Contractor <u>does not</u> accept NYS Procurement Card Prompt payment discount 1% / 10 days</i>			
<b><u>NYS Contract Orders / Emergency / Weekends/Holidays</u></b>			
Phone #: 716-342-6171 Contact: John Quinn Email: john@sealmasterwny.com			
<b>Business Hours: 8:00AM – 3:30PM (M-F)</b>			

<u>Contract #</u>	<u>Contractor Name &amp; Address</u>	<u>Contract Admin / NYS Contract Orders</u>	<u>FED ID#/ NYS Vendor ID#</u>
PC70356	Suit-Kote Corporation 1911 Lorings Crossing Road Cortland, NY 13045	Toll Free #: 800-622-5636 Phone #: 315-238-7053 x351 Contact: Brian Pepper Email: bpepper@suit-kote.com Website: www.suit-kote.com	16-1177189 1000007846
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>Emergency / Weekends/Holidays</u></b>			
Phone #: 607-591-9234 Contact: Joe Perrone Email: jperrone@suit-kote.com			
<b>Business Hours: 7:30AM – 4:30PM (M-F)</b>			

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70357	Thos. H. Gannon & Sons, Inc. 951 Reading Avenue Hammonton, NJ 08037	112280296 1000043171
Website: www.asphaltpavingsystems.com		
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>		
<b><u>Contract Admin / NYS Contract Orders / Emergency / Weekends/Holidays</u></b>		
Phone #: 609-561-4161 x221		
Contact: Walter Percy III		
Email: wpercyiii@asphaltpavingsystems.com		
<b>Business Hours: 7:00AM – 5:00PM (M-F)</b>		

<b><u>Contract #</u></b>	<b><u>Contractor Name &amp; Address</u></b>	<b><u>Contract Admin</u></b>	<b><u>FED ID#/ NYS Vendor ID#</u></b>
PC70358 SB	Vestal Asphalt, Inc. 201 Stage Road Vestal, NY 13850	Phone #: 607-785-3393 Contact: Bernadette Bromley Email: contracts@vestalaspalt.com Website: www.vestalaspalt.com	16-1201418 1000007868
<i>Contractor <u>does not</u> accept NYS Procurement Card</i>			
<b><u>NYS Contract Orders</u></b>		<b><u>Emergency / Weekends/Holidays</u></b>	
Phone #: 607-341-3383		Phone #: 607-341-2667	
Contact: Chris Musser		Contact: Jim Unkel	
Email: dispatch@vestalaspalt.com		Email: contracts@vestalaspalt.com	
<b>Business Hours: 7:00AM – 5:00PM (M-F)</b>			

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.

**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).

## 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 \$60,000,000 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.

## 1.6 Definitions

Capitalized terms used in this Solicitation shall be defined in accordance with Appendix B, Definitions, or as below.

“**Bid Deviation**” shall refer to any variance submitted or proposed by a Bidder, which deviates from, adds extraneous terms to, conflicts with or offers an alternative to any term, condition, specification or requirement of the Solicitation.

“**Business Day**” shall refer to Monday through Friday from 8:00 AM – 5:00 PM ET, excluding NYS Holidays and federal holidays.

“**MWBE**” shall refer to a business certified with NYS Empire State Development (“ESD”) as a Minority- and/or Women-owned Business Enterprise.

“**NYS Holidays**” refers to the legal holidays for State employees in the classified service of the executive branch, as more particularly specified on the website of the NYS Department of Civil Service. This includes the following: New Year’s Day; Dr. Martin Luther King, Jr. Day; Washington’s Birthday (observed); Memorial Day; Juneteenth; Independence Day; Labor Day; Columbus Day; Veterans’ Day; Thanksgiving Day; and Christmas Day.

“**NYS Vendor ID**” is a unique ten-character identifier issued by the NYS Office of the State Comptroller (OSC) when the vendor is registered on the Vendor File System.

**“Preferred Source Products”** shall refer to those Products that have been approved in accordance with New York State Finance Law § 162.

**“Preferred Source Program”** shall refer to the special social and economic goals set by New York State in State Finance Law § 162 that require a governmental entity purchase select Products from designated organizations when the Products meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law § 163, purchases of Products from Preferred Sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State Preferred Sources include: The Correctional Industries Program of the Department of Corrections and Community Supervision (“Corcraft”); New York State Preferred Source Program for People Who Are Blind (“NYSPSP”); and the New York State Industries for the Disabled (“NYSID”). These requirements apply to a state agencies, political subdivisions and public benefit corporations (including most public authorities).

**“Procurement Services”** shall refer to a business unit of OGS, formerly known as New York State Procurement (“NYSPRO”) and Procurement Services Group (“PSG”).

**“SDVOB”** shall refer to a NYS-certified Service-Disabled Veteran-Owned Business.

## SECTION 2: HOW TO USE THE CONTRACT

### 2.1 Introduction & Important Notes

Authorized Users can choose to make a purchase from any of the awarded Contractors listed in this Contract Award Notification, Section 1.1 - *Contractor Information*. Contractors that are not listed in Section 1.1 – *Contractor Information*, cannot be utilized or included in the Quick Quote process involving a purchase through this particular contract.

The only items that can be purchased through this contract are the ones listed in the Price Page attachments for each Lot.

To locate a specific Liquid Bituminous Material Treatment please refer to the individual Price Pages for each Lot which are published as attachments on the OGS website for this contract award under the Pricing & Quick Quote link here:

<http://www.ogs.ny.gov/purchase/spg/awards/3155523334CAN.htm>

### 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 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.

## 2.3 Frequently Asked Questions (FAQs)

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

Authorized Users can choose any of the contractors listed in this Contract Award Notification, Section 1.1 – *Contractor Information*, without restrictions.

- **Is it allowed for a contractor listed in this Award to charge more than the price shown on the Price Pages?**

At no time may a unit price (without the Price Adjustment) for a specific item exceed the unit price shown in the Price Pages. However, the Authorized User should be aware that the unit price does not include the proper Price Adjustment(s) set by the pricing information clause for that treatment. Per the terms of the contract the contractor may include the applicable Price Adjustment as an addition to the unit price.

- **Is the Quick Quote Worksheet mandatory when using this contract?**

Yes. As shown in Section 2.2 – *Quick Quote Process*, “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)”.

## 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=showlt>

For Prevailing Wage Updates, use the following DOL link:

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

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

### 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.

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## SECTION 3: PRICE PAGES and SPECIFICATIONS

### 3.1 Price Pages & Quick Quote Forms

The individual Price Pages and Quick Quotes for each of the Lots included as part of this award (listed below) can be found on the OGS website at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155523334CAN.htm>

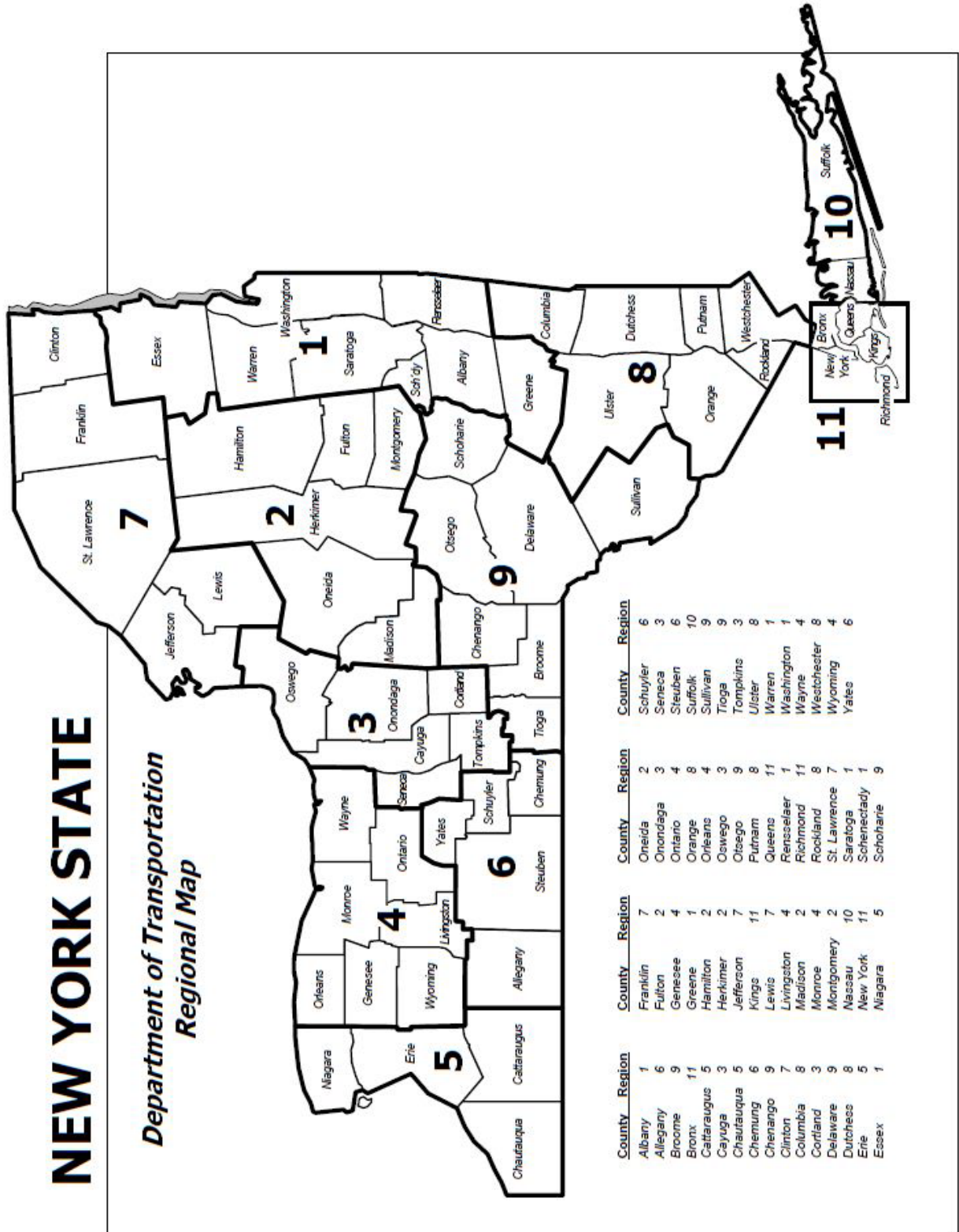
- Lot 1 – Asphalt Emulsions
- Lot 2 – Chip Seal
- Lot 3 – Cold Recycling
- Lot 4 – Heater Scarification
- Lot 5 – Microsurfacing and/or Quick Set Slurry Seal
- Lot 6 – Paver Placed Surface Treatment (Conventional and Modified)
- Lot 7 – Joint & Crack Filler/Sealer and Mastic Repair Material

### 3.2 Specifications

- Attachment 10 – General Specifications
- Attachment 11 – Detailed Specifications – Liquid Bituminous Materials
- Attachment 12 – Group Specification #947
- Attachment 13 – New York State Department of Transportation, Standard Specifications, Construction and Materials
- Attachment 14 – NYSDOT Work Zone Traffic Control

<http://www.ogs.ny.gov/purchase/spg/awards/3155523334CAN.htm>

**SECTION 4: NYSODT REGION MAP**



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## SECTION 5: CONTRACT ADMINISTRATION

### 5.1 Contract Administration

The Bidder 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. Bidder shall also provide an Emergency Contact in the event of an emergency occurring after business hours or on weekend/holidays.

Bidder shall provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Information regarding the Customer Service, Emergency Contact, and Contract Administrator shall be set forth in Attachment 5 – *Bidder Information Questionnaire*. Contractor must notify OGS within five Business Days if it's 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.

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## SECTION 6: TERMS AND CONDITIONS

### 6.1 Contract Administration

The Contract shall be in effect for a term of two (2) years. The Contract term shall commence after all necessary approvals and shall become effective on (i) April 1, 2024, or (ii) upon the date of OSC approval of the final executed contract documents, whichever is later. The Contract term shall end on March 31, 2026.

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 (Lots 1 through 6 ONLY)

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

- General Specifications
- Detailed Specifications – Liquid Bituminous Materials
- Group Specifications #947
- New York State Department of Transportation Standard Specifications, Construction and Materials
- NYSDOT Work Zone Traffic Control

### 6.4 Price Adjustments

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

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**6.5 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.

**6.6 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.

**6.7 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).

**6.8 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.

**6.9 Minimum Order**

Minimum Orders shall be in accordance with Sections 1.4 and 7.4, Minimum Orders, in Attachment – *General Specifications*.

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## **6.10 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 (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>.

## **6.11 Product Delivery**

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

## **6.12 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 supports requisition-to-payment processing and financial management functions.

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/>.

**6.13 Americans with Disabilities Act (ADA)**

The federal ADA bars employment discrimination and requires all levels of government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidder is required to identify and offer any Products it manufactures or adapts that may be used or adapted for use by persons with visual, hearing, or any other physical disabilities. Although it is not mandatory for Bidder to have these Products in order to receive an award, it is necessary to identify any such Products offered that fall into the above category.

**6.14 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 Attachment – *Insurance Requirements*.

**6.15 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 are due no later than fifteen (15) days after the end of each report period as follows:

Report	From	To	Report Due Before
1 <sup>st</sup>	04/01/2024	12/31/2024	01/15/2025
2 <sup>nd</sup>	01/01/2025	08/31/2025	09/15/2025
3 <sup>rd</sup>	09/01/2025	03/31/2026	04/15/2026

Contractors shall specify if any authorized resellers, dealers or distributors are NYS Certified Minority- and/or Women-Owned Business Enterprises (MWBEs), small business enterprises (SBEs), or Service-Disabled Veteran-Owned Businesses (SDVOBs).

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

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

This Contract may be terminated if, on the one-year anniversary date of the Contract Award, and annually thereafter, the reports required to be filed under this Section show that the Contractor has made no sales to any Authorized User under the Contract for the prior year. Termination of the Contract under this Section is in addition to Appendix B – *Termination* and shall take effect upon written notification to the Contractor. The Contract may also be terminated for failure to file the reports required under this Section.

**6.16 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.

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.

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/>. 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.
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.

### 6.17 Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses

Article 3 of the New York State Veterans' Services 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](mailto: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/>

### 6.18 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*.

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### **6.19 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.

### **6.20 Environmental Sustainability and NYS Executive Order Number 22**

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. 22 (Leading By Example: Directing State Agencies to Adopt a Sustainability and Decarbonization Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring Products. More information on Executive Order No. 22, including specifications for offerings covered by this Contract, may be found at <https://ogs.ny.gov/greenny/>. State entities subject to Executive Order No. 22 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.

### **6.21 Preferred Source Products**

Section 162 of the State Finance Law requires that Authorized Users afford first priority to the Products of Preferred Source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such Products meet the form, function and utility of the Authorized User. Some Products in the resultant Contract may be available from one or more Preferred Sources. An Authorized User must determine if a particular Product is approved for a Preferred Source and follow the requirements of State Finance Law § 162(3) or (4)(b), respectively, before engaging the Contractor.

### **6.22 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment**

In accordance with Section 889 of the National Defense Authorization Act (NDAA) for fiscal year 2019, under any Contract or subcontract resulting from this Solicitation, Bidder or resultant Contractor or Subcontractor shall not provide to the State or Authorized User any equipment, system, or service that uses covered telecommunications equipment or services, as defined by the NDAA, as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception applies or the covered telecommunications equipment or services are covered by a waiver, as set forth in the NDAA and the rules and regulations promulgated thereunder.

### **6.23 “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.

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## 6.24 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://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.

## 6.25 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.

## 6.26 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.

## 6.27 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.

## 6.28 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.

## 6.29 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.

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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.

### 6.30 Contract Documents; Electronic Format

OGS encourages Contractor to submit all documents to OGS in an electronic format, including electronic copies of documents with original signatures. Documents requested by OGS should be submitted in the format specified by OGS. Contractor is responsible for retaining the original documents with original signatures that have been scanned and submitted electronically for the term of the contract and any extensions thereof, and for a period of six (6) years after the term of the contract has ended. Contractor shall submit such documents with original signatures to OGS upon request. If Contractor seeks to assign the contract during the term, Contractor shall provide all documents relating to the bid and contract that it has retained to the successor Contractor (assignee) upon OGS consent to the assignment.