

## APPENDIX D

### CONTRACT MODIFICATION PROCEDURE

The following guidelines are subject to change at the discretion of OGS, Procurement Services. A Contract Amendment requires a formally executed document by mutual agreement of the Parties, to be provided by OGS Contract Administrator, after submission and approval of the Contract Modification Form.

- (1) **TYPES OF CONTRACT MODIFICATIONS:** In order to expedite processing of a contract modification, where proposed changes involve more than one category below, each change should be submitted to OGS as a separate request.
  - a) **UPDATES:** “Updates” are changes that do not require a change to the established Contract terms and conditions. Updates May include: adding new Products; deleting obsolete Products; increase pricing which do not decrease the awarded Percentage Discount for a Product Line); lowering pricing of Products already on Contract, changes to authorized Dealer/Distributor list; and other updates not listed above that are deemed to be in the best interest of the State and do not result in a change to the established Contract terms and conditions. Updates must be submitted to the OGS Contract Administrator for review and OGS will notify Contractor in writing if approved.
  - b) **AMENDMENTS:** “Amendments” is an agreement by an existing Contractor to new terms and conditions either issued **as part of a Periodic Recruitment** or by Procurement Services in accordance with §6.19 CONTRACT UPDATES. The process for submitting and processing Amendments involving Periodic Recruitment will be included in the Periodic Recruitment version of IFB 23155. OGS will work directly with the Contractor to obtain the required documentation for each requested amendment and notify the Contractor in writing if approved.
  
- (2) **CONTRACTOR’S SUBMISSION OF CONTRACT MODIFICATIONS:** In connection with any Contract modification, OGS reserves the right to:
  - request additional information
  - reject Contract modifications
  - remove Products from Contract modification requests
  - request additional discounts for new or existing Products
  - remove any Dealer or Distributor
  
- (3) **CONTRACT UPDATES**

OGS will not approve any Contract Update where the Contractor has outstanding Sales Reports, Proof of Insurance or any other documentation that is required under the resulting Contract.

  - a) **PRICING UPDATES:**
    - i. **PRICING INCREASES AND DECREASES:**

Pricing submitted with Bid Must remain in effect through the first anniversary date of the Bid Opening, excepting that price reductions will take affect at any time.

Thereafter, Contractors May request to update their price list when the Manufacturer’s Nationally Published Price List is published reflecting updated (increased or decreased) List Price/MSRP for particular Products.

The Contractor will insert the new List Price/MSRP for the Product into its NYS Net Pricing Pages and multiply this by the awarded Percentage Discount to calculate the updated NYS Net Pricing.

Contractors Must not decrease their Percentage Discount(s) for the entire term of the Contract.

The awarded Percentage Discount May be increased by the Contractor at any time during the Contract term and Contractors will be permitted to reduce their pricing at any time during the Contract term.

ii. **ADDING AND/OR DELETING PRODUCTS:**

Contractors will be permitted to add new Products and/or delete obsolete Products when published by the Manufacturer in their Manufacturer's Nationally Published Price List

New Products(s) offered Must meet IFB Section 3 SPECIFICATIONS. If applicable, the Contractor will submit with their request, Attachment 11 – Product Detailed Specs on all new Products(s).

The discount offered on any new Products Must be no lower than the minimum established Product Line discount.

iii. **GENERAL INFORMATION REQUIRED FOR PRICING:**

The Contractor Must provide OGS with one (1) electronic copy of each of the following:

- Manufacturer's Nationally Published Price List, which Must be dated and include the name of the Price List (e.g. ABC Company's 2019 Retail Price List, effective 3/1/19);
- A revised NYS Net Price List
- Links to federal, other state, or other government contracts held by the contractor for the same Manufacturer's Products, or other acceptable documentation to justify reasonableness of price (if requested by OGS).

b) **ADDING AND/OR DELETING DEALERS OR DISTRIBUTORS:**

Contractors, who are the Manufacturer, will be permitted to add and/or delete authorized Dealers or Distributors any time during the Contract term (See Section 6, DEALERS/DISTRIBUTORS).

The Contractor will submit with their request, a revised Attachment 9- Dealer/Distributor Information, which lists ALL Contractor's Authorized Dealer/Distributor for the Contract.

**PRICE LEVEL JUSTIFICATION – FORMAT:** Contractor is required to submit the Product and price level information for the update in an Excel spreadsheet format electronically via e-mail to the OGS Contract Administrator. The price list Must be dated and will be consistent with the format of the Contractor's approved Attachment 1 - Pricing. The Product and price level information should include and identify (e.g., by use of separate worksheets or by using italics, bold and/or color fonts):

- Price level increases
- Price level decreases
- Products being added;
- Products being deleted

(4) **SUPPORTING DOCUMENTATION:** Each modification request Must include the current contract pricing discount relevant to the Products included in the update.

(5) **SUBMITTAL OF MODIFICATION REQUESTS:** A Contract modification request Must be accompanied by a completed Contract Modification Form. Contractor Must include a cover letter written on company letterhead that briefly describes the nature and purpose of the update (e.g., update requested in order to reflect a recently approved GSA schedule, to restructure the price level to its customers generally, and/or for new Products which fall into a new group or category that did not exist at the time of approval of the Contract by OGS, etc.). The Contract Modification Form Must contain original signatures by an individual authorized to sign on behalf of Contractor and Must be notarized.

**INSTRUCTIONS:**

1. This form is to be used for all Contract modifications. The form is to be completed in full, signed and submitted to OGS, Procurement Services for final approval. Any submission that is not complete and signed will be rejected.
2. Contract updates must be in accordance with the Contract and submitted via e-mail to the OGS Contract Administrator for this Contract.
3. If more than one type of modification is being requested, each type should be submitted as a separate request.

The Contract modification request must be accompanied by the relevant current contract pricing discount information.

<b>CONTRACT MODIFICATION FORM</b>	
OGS CONTRACT NO.: _____  CONTRACT DESCRIPTION: <b>Award 23155, Group 35200 - Firearms, Ammunition, and Less-Lethal Products (Statewide)</b>	DATE OF SUBMISSION: _____
CONTRACT PERIOD: From: November 1, 2019  To: October 31, 2024	CONTRACTOR CONTACT: NAME: _____  PHONE NO: _____  E-MAIL: _____
<b>NOTE: Submission of this FORM does not constitute acceptance by the State of New York until approved by the appropriate New York State representative(s).</b>	

**COMPLETE STATEMENTS 1 THROUGH 5 BELOW:**

1. This request is for an: _____ Update _____ Amendment See Contract Modification Procedure for an explanation of these terms.	2. The intent of this submittal is to: _____ Add new Products _____ Delete Products _____ Increase Pricing _____ Reduce Pricing _____ Change Dealer/Distributor List _____ Other Update _____ Other Amendment
3. All discounts are: _____ GSA _____ Most Favored Nation*  _____ *Prices offered are the lowest offered to any similarly situated entity.	4. Attached documentation includes: _____ Cover letter written on company’s letterhead _____ Current approved GSA Schedule, if applicable (labeled "For information only") _____ Current Manufacturer’s Nationally Published Price List(s) _____ Revised NYS Net Price List in same format required for this Contract, dated and new products indicated _____ Attachment 9 – <i>Dealer/Distributor Info</i> (if applicable) which lists ALL Dealers/Distributors for the Contract _____ Attachment 11 – <i>Product Detailed Specs</i> (if applicable)
5. Cover Letters: Describe the nature and purpose of the update/modification (e.g., update requested in order to reflect a recently published Manufacturer’s Published Price List, to add/delete Products, to add/delete Dealer or Distributor, etc.).	

The following CORPORATE ACKNOWLEDGEMENT statement Must be signed by an individual authorized to sign on behalf of Contractor for the modification being requested in this Contract Modification document. The authorizing authority’s signature Must be notarized.

\_\_\_\_\_  
Signature of Authorized Contractor Representative

**CORPORATE ACKNOWLEDGMENT**

STATE OF } : \_\_\_\_\_

ss.:

COUNTY OF } \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_, before me personally came:  
\_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that  
he/she/they reside(s) in \_\_\_\_\_; that he/she/they is (are)  
\_\_\_\_\_ (the President or other officer or director or attorney in fact duly  
appointed) of \_\_\_\_\_, the corporation described in and  
which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by  
authority of the board of directors of said corporation.

\_\_\_\_\_  
**Notary Public**

**OGS APPROVAL:**

Approved \_\_\_\_\_ Approved as amended \_\_\_\_\_ Disapproved \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date \_\_\_\_\_