



# Contract Award Notification

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| <b>Title</b>                   | : <b>Group 35205 – BODY ARMOR, LAW ENFORCEMENT (Soft, Ballistic, Stab &amp; Riot) (Statewide)</b><br><b>Classification Code(s): 46</b> |
| <b>Award Number</b>            | : <b><u>22926</u></b> (Replaces Award ) 21800  |
| <b>Contract Period</b>         | : <b>October 1, 2015 through September 30, 2020</b>  |
| <b>Bid Opening Date</b>        | : <b>June 2, 2015</b>  |
| <b>Date of Issue</b>           | : <b>September 30, 2015</b>  |
| <b>Specification Reference</b> | : <b>As Incorporated In The IFB</b>  |
| <b>Contractor Information</b>  | : <b>Appears on Page 2 of this Award</b>   |

## Address Inquiries To:

| State Agencies & Vendors  | Political Subdivisions & Others   |
|---|---|
| Name : Neilene Rabideau   | Procurement Services  |
| Title : Contract Management Specialist  | Customer Services   |
| Phone : 518-473-6518  | Phone : 518-474-6717  |
| Fax : N/A   | Fax : 518-474-2437  |
| E-mail : <a href="mailto:neilene.rabideau@ogs.ny.gov">neilene.rabideau@ogs.ny.gov</a> | E-mail : <a href="mailto:customer.services@ogs.ny.gov">customer.services@ogs.ny.gov</a> |

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

## Description

NOTICE: THIS CONTRACT AWARD NOTIFICATION CONTAINS A SUBSET OF INFORMATION FROM THE INVITATION FOR BIDS (IFB). CONTRACTS RESULTING FROM IFB 22926 HAVE BEEN EXECUTED BY CONTRACT AWARD LETTER. THE CONTRACT AWARD LETTER SETS FORTH THE ORDER OF PRECEDENCE FOR THE TERMS AND CONDITIONS OF THE EXECUTED CONTRACTS. COMPLETE CONTRACT DETAILS INCLUDING TERMS AND CONDITIONS CAN BE FOUND IN THE IFB DOCUMENT, ATTACHMENTS, AND APPENDICES.

The purpose of this Award is to provide law enforcement agencies with the means of acquiring various manufacturers' lines of Body Armor including Soft, Hard, Ballistic, and Stab resistant. This Award also includes shields, helmets and other related riot control equipment.

There are no New York State certified minority- and women-owned business enterprises ("MWBES") goals in this Award.

**NOTE: See individual contract items to determine actual awardees.**

| <b><u>CONTRACT #</u></b> | <b><u>CONTRACTOR</u></b>                                    | <b><u>TELEPHONE #</u></b>  | <b><u>FED.IDENT.# /<br/>NYS VENDOR#</u></b> |
|--------------------------|---|----------------------------|---|
| PC67143<br>SB            | APPLIED TACTICAL TECHNOLOGIES, INC.                         | 800-223-1204               | 11-3262250/<br>1000034176                   |
| PC67144                  | CENTRAL LAKE ARMOR EXPRESS, INC.<br>d/b/a Armor Express     | 866-357-3845               | 20-2901741/<br>1000044322                   |
| PC67145                  | GH ARMOR SYSTEMS, INC.                                      | 866-920-5940               | 20-4998424/<br>1000057375                   |
| PC67146                  | KDH DEFENSE SYSTEMS, INC.                                   | 866-517-1113               | 20-0391151/<br>1100048024                   |
| PC67147                  | POINT BLANK ENTERPRISES, INC.                               | 800-413-5155               | 45-3646868/<br>1100030315                   |
| PC67148                  | SAFARILAND, LLC<br>d/b/a The Safariland Group               | 800-347-1200<br>Ext. 11739 | 59-2044869/<br>1000009562                   |
| PC67149                  | SURVIVAL ARMOR, INC.  | 866-686-5001               | 62-1767572/<br>1000045065                   |
| PC67150                  | U.S. ARMOR CORP.  | 800-443-9798               | 95-4068379/<br>1100142730                   |
| PC67151                  | USI HOLDINGS, LLC<br>d/b/a United Shield International, LLC | 800-705-9153               | 65-1246978/<br>1000045095                   |

**FOR COMPLETE CONTRACTOR CONTACT INFORMATION, PLEASE REFER TO CONTRACTORS' INFORMATION DOCUMENT.**

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

**INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.**

**(See "Contract Payments" and "Electronic Payments" in this document.)**

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT 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 THE PROCUREMENT SERVICES.

**SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:**

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

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**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).

**REQUEST FOR CHANGE:**

Any request by the agency or Contractor regarding changes in any part of the contract must be made in writing to the Office of General Services, Procurement Services Group prior to effectuation.

**NOTE TO CONTRACTOR:**

This Contract Award Notification is not an order. Do not take any action under this contract except on the basis of purchase order(s) from the agency or agencies.

**OVERVIEW:**

This Award is issued by the New York State Office of General Services Procurement Services. The commodities contract awarded is a centralized contract for use by New York State Agencies and Authorized Non-State Agencies Participation in Centralized Contracts. Accordingly, references to the State and its Agencies as Authorized Users under this solicitation and the ensuing contract encompasses and includes all such entities within the definition of “Authorized User” set forth in Appendix B.

**PROCUREMENT INSTRUCTIONS:**

The Authorized User should be familiar with and follow the terms and conditions governing its use which appear in the contract document. Listed below are separate guidance for “Executive Agencies” and “Non-Executive Agencies”. All Authorized Users shall issue purchase order(s) directly to the Contractor by mail or fax, listed in Contractors’ Information document.

Upon Authorized User acceptance of products itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of products accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all products in accordance with the contractual requirements.

**NOTE TO ALL CONTRACT USERS:**

DCJS reimbursement availability, eligibility and information is available at <http://www.criminaljustice.ny.gov/ofpa/sba.htm>

**FEDERAL "BULLETPROOF VEST PARTNERSHIP":**

The U.S. Department of Justice, Bulletproof Vest Partnership, Information Line is 1-877-758-3787 or email to [vest@usdoj.gov](mailto:vest@usdoj.gov)

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**FOR EXECUTIVE AGENCIES:**

An Executive Agency Authorized User shall first purchase all contract items from the appropriate Preferred Sources as required by State Finance Law §162. If the Preferred Sources do not provide a product that meets the form, function and utility of the Executive Agency Authorized User, it may then purchase products from the Contractor(s).

**FOR NON-EXECUTIVE AGENCIES:**

A Non-Executive Agency Authorized User that is subject to the requirements of State Finance Law §162 (4) shall first purchase all contract items from the appropriate Preferred Sources as required by State Finance Law §162. If Preferred Source products do not meet the entity's form, function and utility (as required by State Finance Law §162) then it may purchase products from the Contractor(s).

A Non-Executive Agency Authorized User that is not subject to the requirements of State Finance Law §162 (4) may purchase products directly from the Contractor(s)

**PRICE:**

**GENERAL**

Price is net, F.O.B. destination any point in New York State as designated by the ordering agency and shall include:

- Tailgate delivery including unloading at an armory or to the quartermaster.
- All customs, duties and charges.
- Expansion of delivery locations upon mutual agreement per the "Extension of Use" clause.

**PRICE CHANGES**

The following guidelines are subject to change at the discretion of OGS.

Price lists awarded must remain in effect through January 2016. Thereafter, new price lists will be considered when nationally published by the manufacturer in its normal manner. All price revisions made by the manufacturer must be reviewed and approved by OGS. All additions included in the contract will use either the Contractor's original discount or a higher discount, if offered.

The Contractor may request a price list revision by submitting the following to OGS:

- One (1) hard copy of the Contract Update Form. Form must contain original signatures by an individual authorized to sign on behalf of Contractor.
- One (1) electronic copy of the nationally published manufacturer's price list in Excel format (2013 or lower is preferred, if available) and submitted on electronic media (i.e. CD, or flash drive). **HARD COPIES ARE NOT ACCEPTABLE.**
- One (1) electronic copy of the NET price list in an Excel format (2013 or lower is preferred, if available) and submitted on electronic media (i.e. CD flash drive). **HARD COPIES ARE NOT ACCEPTABLE.**

Price lists will be reviewed for reasonableness and if compliant, OGS will approve and issue a Contract Award Notification Update notifying contract users of the update. Contractors are urged to allow at least 30 days for price list approvals. After approval from OGS, updates to a Contractor's price schedule will become a part of the contract.

The Contractor shall provide using agencies with the current OGS approved price lists upon request at no charge. Any items/products/categories in the price list not awarded by OGS must be removed before being supplied to contract user.

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**LOWER PRICING**

The State reserves the right to negotiate lower pricing, or to advertise for bids, whichever is in the State's best interest as determined by the Commissioner, in the event of a significant decrease in market price of any product listed. In addition, if the Contractor's normal pricing to the public or to the trade in general is less than the net/contract pricing after the application of a contract discount, cost+ etc., then the normal pricing to the public or to the trade in general shall also be granted to contract participants.

**UNWORKABLE PRICE STRUCTURE**

Should the price structure utilized by the parties become unworkable, detrimental or injurious to the State, or result in prices which are not truly reflective of current market conditions, or result in prices deemed unreasonable or excessive by the Commissioner, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon 10 days written notice mailed to the Contractor to terminate any contract resulting from this bid solicitation. If the Contractor is unable or unwilling to meet contractual requirements in whole or in part based on an unworkable price structure, it shall immediately notify OGS of that fact in order that OGS may take appropriate action. Such notification shall be in writing and shall be directed to the Office of General Services, Procurement Services. Such notification shall not relieve the Contractor of its responsibilities under the contract.

**DISCOUNTS**

Reduction in discounts will not be allowed and is specifically excluded from the terms and conditions of this contract award.

Increases in discounts or price decreases are permitted at any time.

**VOLUME DISCOUNTS**

All contract users are encouraged to negotiate lower pricing with Contractor(s) whenever large volume purchases to a single delivery location are being made (e.g., orders for over 100 units). A unit shall be considered a complete vest or other product which can be used by itself (i.e., helmet, shield, etc.).

**DETAIL SPECIFICATIONS**

**GENERAL DESCRIPTION:**

All products are to be **new**, not remanufactured, not seconds, not surplus.

**LOT I - SOFT BODY ARMOR**

Soft Body Armor product lines consists of vests and any accessories that may accompany vests.

**LOT II - HARD BODY ARMOR and RELATED PROTECTION PRODUCTS**

Product lines primarily consisting of Hard Body Armor including, but not limited to, rigid ballistic shields, riot shields, helmets and visors.

**CERTIFICATION:**

National Institute of Justice (NIJ):

**Body Armor, Ballistic-resistant:** All ballistic-resistant vests and plates must carry the NIJ Standard-0101.06 July 2008 certification. If the NIJ updates this standard, Contractor(s) must carry the current NIJ Standard certification for products at time of delivery.

**Body Armor, Stab-resistant:** All stab-resistant vests and plates must carry the NIJ Standard-0115.00 September 2000 certification for Protection Class: Spike and Edged Blade. If the NIJ updates this standard, Contractor(s) must carry the current NIJ Standard certification for products at time of delivery.

**“Dual-Purpose” Ballistic and Stab** must carry the NIJ Standard certification under each product type.

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**QUALITY:**

All products shall be of high quality materials and without any manufacturing and/or product defects or imperfections.

**DEFINITIONS/ACRONYMS**

The terms used in this Award are defined in accordance with Appendix B (General, §2 Definitions). In addition, the following definitions shall apply.

“**Authorized User(s)**” as defined in Appendix B.

“**Ballistic/Ballistic-resistant**” shall refer to body armor that protects against bullet penetrations and the blunt trauma associated with bullet impacts.

“**Commissioner**” shall mean the Commissioner of the Office of General Services or duly authorized representative.

“**Contract**” as defined in Appendix B.

“**Contractor**” shall refer to a responsive and responsible Bidder who has offered the lowest price for the IFB and is working under an executed contract with New York State. Contractor is a general term.

“**Issuing Office**” shall refer to the Office of General Services.

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

“**n/a**” is a common abbreviation for not applicable or not available, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.

“**NIJ**” shall mean the National Institute of Justice.

“**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; Martin Luther King Day; Washington’s Birthday (observed); Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving Day; and Christmas Day.  
[http://www.cs.ny.gov/attendance\\_leave/TM\\_40.cfm](http://www.cs.ny.gov/attendance_leave/TM_40.cfm)

“**Preferred Source Offering**” shall refer to those commodities or services that have been approved in accordance with 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 commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People Who Are Blind; New York State Industries for the Disabled; and the Office of Mental Health. These requirements apply to a state agency, political subdivision and public benefit corporation (including most public authorities).

“**Procurement Services**” shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such contracts.

“**Puncture-resistant**” see “Stab-resistant.”

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“**Stab/Stab-resistant**” shall refer to body armor that protects against penetration of knife blades or other spike-style weapons as defined by NIJ Stab-Resistant Standard 0115.00.

“**The State**” shall mean The People of the State of New York, which shall also mean the New York State Office of General Services.

“a **Unit**” shall be considered a complete vest or other product which can be used by itself (i.e., helmet, shield, etc.).

#### NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS

New York State political subdivisions and others authorized by New York State law may participate in 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 "Participation in Centralized Contracts" in Appendix B, OGS General Specifications. 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 the Contractor 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 (<http://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 OGS Procurement's Customer Services at 518-474-6717.

#### "OGS OR LESS" GUIDELINES APPLY TO THIS CONTRACT

Purchases of the products included in the IFB 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 Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State agencies should refer to Procurement Council Guidelines for additional information.

#### PREFERRED SOURCE PRODUCTS

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services 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 and NYS Industries for the Disabled, and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant contract(s) may be available from one or more preferred sources. In the Contract Award Notification, agencies will be reminded to comply with the statutory requirements and resulting guidelines with respect to affording first priority to the preferred sources.

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**DISPUTE RESOLUTION POLICY**

It is the policy of the OGS Procurement Services to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to Procurement Services bid solicitations, contract awards and contract administration. Procurement Services encourages vendors to seek resolution of disputes through consultation with Procurement Services staff. All such matters shall be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of OGS's Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown on the front of this Invitation for Bids or through the OGS website (<http://www.ogs.ny.gov/>).

**DEBRIEFING**

Contractors and Bidders are accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contract is awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 calendar days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

**ORDER OF PRECEDENCE**

The list of documents below address clarifications agreed to by the Contractor and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the Contract award. The documents listed below were included in Invitation for Bids (IFB) #22926 or provided by the Contractor. Unless otherwise set forth in the procurement or contract documents, conflicts among documents shall be resolved in the following order of precedence:

1. Appendix A (January 2014), Standard Clauses for NYS Contracts (previously provided);
2. This Contract Award Letter
3. Revisions and Clarifications to Bid Specifications dated May 19, 2015 & May 28, 2015 (previously provided);
4. Appendix D, Contractor Requirements And Procedures For Equal Employment And Business Participation Opportunities For Minority Group Members And New York State Certified Minority- And Women-Owned Business Enterprises;
5. Invitation for Bids #22926 including all Appendices and Attachments referenced therein (previously provided);
6. Bidder's bid Prices for Lot I – Soft Body Armor and Lot II – Hard Body Armor and Related Protection Products
7. Bidder's Bid

**CONFLICT OF TERMS**

The following are incorporated into the resulting Contract. Conflicts among the documents shall be resolved in the following order of precedence:

1. Appendix A, Standard Clauses for New York State Contracts;
2. Contract Award Letter;
3. Revisions and Clarifications to Bid Specifications dated May 19, 2015 & May 28, 2015; and
4. Invitation for Bids #22926 including all Appendices and Attachments referenced therein
5. Contractor's bid Prices for Lot I – Soft Body Armor and Lot II – Hard Body Armor and Related Protection Products
6. Contractor's bid

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**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY:**

Contractor is encouraged to maintain up-to-date Questionnaire during the life of the contract and is also required to ensure this Questionnaire reflects any substantive issues that may have occurred from the time the Contract was initially awarded.

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, at her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

**AUTHORIZED DEALERS/DISTRIBUTORS:**

Addition or removal of Authorized Dealers/Distributors to the resulting contract must be submitted to OGS by the Contractor and sales may not be made by new Dealers/Distributors until OGS has approved the addition and posted it on our website.

Contractor's authorized dealers/distributors who accept direct payments from an Authorized User must complete the Vendor Responsibility Questionnaire. Subsequently, OGS will make a Responsibility determination on the authorized dealer/distributor.

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY-AND WOMEN-OWNED BUSINESS ENTERPRISES**

**I. 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. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State certified minority- and women-owned business enterprises ("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.

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- C. The Contractor further agrees to be bound by the provisions of Article 15-A and the MWBE Regulations. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- D. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

**II. Contract Goals**

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that this contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers and 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, 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 and copies of such solicitations and any responses thereto.
- (2) A list of the certified MWBEs appearing in the Empire State Development 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.

**III. Equal Employment Opportunity (EEO)**

- A. Contractor shall comply with the following provisions of Article 15-A:
  - 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.
  - 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.
- B. Form EEO 100 – Staffing Plan

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To ensure compliance with this section, the Contractor submitted a staffing plan on Form EEO 100 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. Contractor shall complete the Staffing plan form and submit it as part of their contract.

C. Form EEO 101 - Workforce Employment Utilization Report (“Workforce Report”)

Contractor agrees it will, upon request, submit to OGS, a workforce utilization report on Form EEO 101, identifying the workforce actually utilized on the Contract if known.

D. Contractor shall comply with the provisions of the Human Rights Law, 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 and conviction and prior arrest.

**ALL FORMS ARE AVAILABLE AT:** <http://www.ogs.ny.gov/MWBE/Forms.asp>

**SERVICE REQUIREMENTS**

The following sets forth the mandatory service requirements for the Contract.

**SUPPORT SERVICE:**

Pre-Sale: The Contractor shall assist the using agency with obtaining the most appropriate equipment for the agency’s needs. This may include verbal information, printed literature, demonstration or samples. The extent of involvement shall be commensurate with purchase size and complexity.

Measurements: For purchases of 11 vests or more, the manufacturer or their designated representative shall provide measurement and fitting upon request. For orders of less than 11 vests, manufacturer shall provide whatever assistance is feasible (i.e., sizing sheets).

Training: The manufacturer shall provide written instruction for proper care, handling, storage and cleaning procedures with each vest. Additionally, for purchases of 11 vests or more, the manufacturer shall provide group instruction on above methods.

**WARRANTIES:**

The Contractor guarantees that the equipment offered is new equipment. Ballistic material must be guaranteed against faulty material and workmanship for a minimum period of five (5) years. If manufacturer’s standard warranty is greater than five (5) years, such extended warranty shall apply. If, during this period, such faults develop, the unit or part affected is to be replaced without any cost to the user including any charges for parts, labor and transportation.

Where accessories are to be supplied, they must be compatible with the rest of the equipment.

**RECALLS:**

The Contractor shall immediately notify the OGS Procurement Services of any recalls pertaining to contract items.

**DELIVERY**

Delivery is expressed within Contractors’ Information document the number of calendar days required to make delivery after receipt of a purchase order to any location in NYS.

Delivery shall be Tailgate delivery including unloading at an armory or to the quartermaster.

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.

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**Shipping Dates and Delivery Time**

- All correspondence on shipping dates and delivery time shall be directed to the authorized user's contact person.
- Contractor shall provide written acknowledgement of orders within five (5) business days after receipt of order and shall also provide anticipated shipping date.
- If shipment will not be made within the anticipated delivery timeframe, the Contractor is required to notify the authorized user in writing at least two weeks prior to the latest date of the original delivery obligation. This notification must include the reasons for the delay and a revised anticipated ship date. The authorized user may request the Contractor to provide documentation to support the reason for the shipping delay. Failure to supply timely written notification of delay to the authorized user or should the reason for the delay not be acceptable to the authorized user, appropriate contract default proceedings may be initiated.

**METHOD OF PAYMENT**

Invoicing and payment shall be made in accordance with the terms set forth in Appendix B §49. Contract Invoicing.

**DISCREPANCIES**

The Contractor(s) shall resolve all order and invoice discrepancies (e.g., shortages, incorrect item received, etc.) within five (5) business days from notification.

**SETTLEMENTS**

OGS has the right to determine the disposition of any rebate, settlement, restitution, liquidated damage, etc. which arise from the administration of this Contract.

**PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS**

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, be outdated or damaged, etc., shall be picked up by the Contractor within ten business days after notification with no restocking fee. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

Products that are compromised due to incident involvement shall be the responsibility of the ordering entity to replace. Contractors are responsible for replacement products consistent with the terms of the offered manufacturer(s) warranties.

**PRODUCT RETURNS BECAUSE OF AUTHORIZED USER ERROR**

Standard stock products ordered in error by Authorized User must be returned for credit within 30 days of receipt. Product must be in resalable condition (original container, unused).

**ADDITION OF PRODUCTS**

Upgrades to awarded products will be considered for inclusion by awarded Contractor(s) during the contract term provided they are pertinent to the award description and offered to the state at the same terms and conditions as in the original bid and at pricing at the same discount structure of the awarded product.

**PRODUCT END-OF-CYCLE DISPOSAL/RECYCLING**

If available, Contractor is to provide an overview of the manufacturer(s) established recycling and/or disposal program. At the request of the ordering entity, the contractor is to provide written instructions on how to use this program.

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**ADMINISTRATIVE AND REPORTING REQUIREMENTS**

The Contractor shall provide the following reports to OGS Procurement Services, at the e-mail address listed on the Notice of Contract Award, on or before the fifteenth (15<sup>th</sup>) of the month following the end of each six-month period. Semi-annual periods will end on March 31st and September 30th. Failure to submit reports on a timely basis may result in contract cancellation and designation of Contractor as non-responsible.

**REPORT OF CONTRACT PURCHASES**

The Contractor shall submit electronically, semi-annual (six month period) comprehensive as outlined in REPORT OF CONTRACT PURCHASES. Contractor agrees that additional related information may be required and shall be supplied upon request of OGS.

If the Contractor has designated dealers or distributors to service their portion of the contract, it is the Contractor's responsibility to ensure that these reports are maintained. The Contractor should compile all information from its dealers and then submit ONE complete report to OGS on or before due dates.

The report is to be submitted electronically in Microsoft Excel 2013 or lower format to the OGS contact shown on the front page of the Contract Award Notification and shall reference the Group Number, the Award Number, Contract Number, sales period, and Contractor's (or other authorized agent) name in the document.

**AUTHORIZED USER SALES REPORTS**

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on each six-month basis, a report listing the following: name of Products purchased, quantity purchased, unit price and total dollar volume of purchases.

**APPENDICES AND ATTACHMENTS**

The Contractor's attention is directed to the appendices and attachments attached hereto and hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein. The Contractor is responsible for adhering to all requirements of the appendices.

**Appendix A**, Standard Clauses For New York State Contracts, dated January 2014, attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein. Please retain this document for future reference and do not return to OGS as part of the Bid submission.

**Appendix B**, Office of General Services General Specifications, dated June 2014, attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein and shall govern any situations not covered by this Bid Document or Appendix A. Please retain this document for future reference and do not return to OGS as part of the Bid submission.

**CONTRACT PERIOD AND RENEWALS**

It is the intention of the State to enter into a contract for a term of five (5) years as stated herein. If mutually agreed between OGS and the Contractor, the contract may be renewed under the same terms and conditions for additional time period(s) not to exceed a total contract term of six (6) years.

**SHORT TERM EXTENSION:**

In the event the 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 one month upon notice to the Contractor with the same terms and conditions as the original contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three months in lieu of one month. However, this extension terminates should the replacement contract be issued in the interim.

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**EXTENSION OF USE**

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead contracting 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.

**ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER 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 commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. The Executive Order No. 4 specification for single use food containers and single use food service utensils adopted in May 2010, for example, requires all single use food containers, coatings, and single use food service utensils, to the maximum extent practicable, be compostable as defined under the ASTM Standard Specification for Compostable Plastics (D6400-04) and ASTM Standard Specification for Compostable Plastics Used as Coatings on Paper and Other Compostable Substrates (D6868-03) or, if such standard is not applicable, be biodegradable and where possible certified by the Biodegradable Products Institute (BPI). Similarly, specifications were adopted for hand soap/cleanser. Additional information on green cleaning requirements is set forth at <https://greencleaning.ny.gov/Entry.asp>. 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.

**MERCURY-ADDED CONSUMER PRODUCTS**

Contractors are advised that effective January 1, 2005, Article 27, Title 21 of the Environmental Conservation Law bans the sale or distribution free of charge of fever thermometers containing mercury except by prescription written by a physician and bans the sale or distribution free of charge of elemental mercury other than for medical pre-encapsulated dental amalgam, research or manufacturing purposes due to the hazardous waste concerns of mercury. The law further states that effective July 12, 2005, manufacturers are required to label mercury-added consumer products that are sold or offered for sale in New York State by a distributor or retailer. The label is intended to inform consumers of the presence of mercury in such products and of the proper disposal or recycling of mercury-added consumer products. Offerers are encouraged to contact the Department of Environmental Conservation, Bureau of Solid Waste, Reduction & Recycling at (518) 402-8705 or the Bureau of Hazardous Waste Regulation at 1-800-462-6553 for questions relating to the law. Offerers may also visit the Department's web site for additional information: <http://www.dec.ny.gov/chemical/8512.html>

**DIESEL EMISSION REDUCTION ACT**

Pursuant to N.Y. Environmental Conservation Law §19 0323 of the (“the Law”) it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology (“BART”) and ultra-low sulfur diesel fuel (“ULSD”). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by contract vendors “on behalf of” State agencies and public authorities and require certain reports from contract vendors. All heavy duty diesel vehicles must have BART by December 31, 2015 (unless further extended by Law). The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Contractor hereby certifies and warrants that all heavy duty vehicles, as defined in NYECL §19 0323, to be used under this contract, will comply with the specifications and provisions of NYECL §19 0323, and 6 NYCRR Parts 248 and 249.

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**ELECTRONIC EQUIPMENT RECYCLING AND REUSE ACT**

Contractors should be aware of the NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act which was signed into law in May 2010 and requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of covered electronic equipment, it must agree to comply with these requirements. More information regarding the Electronic Equipment Recycling and Reuse Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>

**NEW YORK STATE STATEWIDE FINANCIAL SYSTEM**

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the contract period, and by submittal of a bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

**CONTRACT ADVERTISING**

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

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