



**Office of General Services  
Procurement Services**

Corning Tower, Empire State Plaza, Albany, NY 12242 | <https://ogs.ny.gov/procurement> | [customer.services@ogs.ny.gov](mailto:customer.services@ogs.ny.gov) | 518-474-6717

# Invitation for Bids (Revised 02/03/2021)

<b>BID OPENING</b> <b>DATE:</b> March 9, 2021 <b>TIME:</b> 11:00 A.M. EST <b>INVITATION FOR BIDS NUMBER:</b> <b>23227</b>	<b>TITLE: Group 35205</b> BODY ARMOR, LAW ENFORCEMENT (Soft Body Armor or Hard Body Armor) (Statewide) <b>Classification Codes: 46</b>
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**CONTRACT PERIOD:** Upon OSC Approval to September 30, 2026

**DESIGNATED CONTACTS:** In accordance with the Procurement Lobbying Law [State Finance Law § 139-j(2)(a)], the following individuals are the Designated Contacts for this Solicitation. All questions relating to this Solicitation Must be addressed to the Designated Contacts.

Email Address: [OGS.sm.SSTSafetySecurity@ogs.ny.gov](mailto:OGS.sm.SSTSafetySecurity@ogs.ny.gov)

<b>PRIMARY CONTACT</b> Neilene Rabideau Contract Management Specialist 1 Telephone No. (518) 473-6518 Email address: <a href="mailto:OGS.sm.SSTSafetySecurity@ogs.ny.gov">OGS.sm.SSTSafetySecurity@ogs.ny.gov</a>	<b>SECONDARY CONTACT</b> Joseph Better Contract Management Specialist 3 Telephone No. (518) 474-7101 Email address: <a href="mailto:OGS.sm.SSTSafetySecurity@ogs.ny.gov">OGS.sm.SSTSafetySecurity@ogs.ny.gov</a>
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<b>Bidder's Federal Tax Identification Number:</b> <i>(Do Not Use Social Security Number)</i>	<b>NYS Vendor Identification Number:</b> <i>(See New York State Vendor File Registration Clause)</i>
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Legal Business Name of Company Bidding:

D/B/A – Doing Business As (if applicable):

Street	City	State	County	Zip Code
E-mail Address:		Company Web Site:		

If applicable, place an "x" in the appropriate box(es) *(check all that apply)*

<input type="checkbox"/> NYS Small Business # Employees	<input type="checkbox"/> Service Disabled Veteran Owned Business	<input type="checkbox"/> NYS Minority Owned Business	<input type="checkbox"/> NYS Women Owned Business
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If you are not bidding, place an "x" in the box and return this page only.

WE ARE NOT BIDDING AT THIS TIME BECAUSE:

**FOR PROCUREMENT SERVICES USE ONLY**

LITERATURE <input type="checkbox"/>	LETTER <input type="checkbox"/>	USB FLASH DRIVE <input type="checkbox"/>	# of Binders/Packages: _____
PURC. MEMO <input type="checkbox"/>	OTHER <input type="checkbox"/>	_____	Documented by: _____

### Bidder Certification and Affirmation

Bidder certifies and affirms as follows:

1. This Bid is an irrevocable offer for 180 days from the date of submission to the New York State (“NYS”) Office of General Services (“OGS”), or for such longer period as is set forth in the Invitation for Bids.
2. The Bidder can and will provide and make available, at a minimum, the Products, deliverables and/or services as described in the Invitation for Bids.
3. The Bidder has read and understands the provisions of the Invitation for Bids, and all appendices, attachments, and exhibits attached thereto, including Appendix A (Standard Clauses for New York State Contracts), Appendix B (General Specifications), and Appendix D (**Federal Funding Terms and Conditions**).
4. The information contained in this Bid is complete, true, and accurate.
5. The Bidder understands and agrees to comply with the requirements of the Procurement Lobbying Law, State Finance Law § 139-j and § 139-k, and with OGS’s procedures relating to permissible contacts during a procurement as required by State Finance Law § 139-j(3) and § 139-j(6)(b). Such requirements and procedures are posted at <https://ogs.ny.gov/acpl>.

The signer affirms under penalties of perjury that he or she is duly authorized to legally bind the Bidder referenced above and that he or she signed this Bidder Certification as the legally binding act of the Bidder.

\_\_\_\_\_  
Print Full Bidder Entity Name

By: \_\_\_\_\_  
Signature of Person Authorized to Legally Bind the Bidder

\_\_\_\_\_  
Print Name of Signatory

\_\_\_\_\_  
Print Title of Signatory

\_\_\_\_\_  
Date

**RETURN THIS PAGE AS PART OF BID**

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- Appendix C – *Contract Modification Procedure*
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## SECTION 1 INTRODUCTION

### 1.1 OVERVIEW

This Invitation for Bids (IFB) is issued by the New York State (NYS) Office of General Services (OGS), Procurement Services to establish multiple statewide **Centralized** Contracts for Soft Body Armor and Hard Body Armor (including Ballistic-resistant, Stab-resistant, Riot, Bomb, & Accessories) for all Authorized Users eligible to purchase through this Solicitation. as is defined in Section 1.9 *DEFINITIONS*.

This IFB contains Soft Body Armor and Hard Body Armor which are described in further detail below in Section 1.2 *Scope*,

For each Product Line, only one award Will be made to the Responsive and Responsible Bidder, who offers the best (highest) Percentage Discount for that Product Line. For a successful Bidder who is awarded more than one Product Line, only one **Centralized** Contract Will be issued. Please see Section 5 *Method of Award* for additional information.

This Solicitation outlines the terms and conditions and all applicable information required for submitting a Bid. Bidders should pay strict attention to the Bid submission date and time to prevent disqualification. Bidders are strongly encouraged to read the language of this Solicitation thoroughly and to precisely follow the instructions included in the Solicitation and all attachments.

### 1.2 SCOPE

The purpose of this IFB is to establish **Centralized** Contracts with qualified Bidders to provide new Soft Body Armor and Hard Body Armor, including Ballistic-resistant, Stab-resistant, Riot, Bomb, and Accessories which meet the requirements in Section 3 *Specifications*.

The scope of this IFB and the resultant Contracts is set forth below:

- A. SOFT BODY ARMOR (Ballistic-resistant, Stab-resistant) & ACCESSORIES  
This consists primarily of concealable Vests, panels, and accessories. The accessories May include, but are not limited to, Carriers, Trauma Packs, and body armor for the protection of neck, groin, arms, & legs but excludes general use gear bags.
- B. HARD BODY ARMOR (Ballistic-resistant, Stab-resistant, Riot, and Bomb) & ACCESSORIES  
This consists primarily of Vests, rigid plates, and accessories. Hard Body Armor also includes Riot Suits, Bomb Suits, Ballistic-resistant & Riot helmets and visors, Ballistic-resistant & Riot shields, and May include other Ballistic-resistant shielding Products such as Ballistic-resistant clipboards, Ballistic-resistant briefcases, and Ballistic-resistant blankets. The accessories May include, but are not limited to, Trauma Plates, and body armor for the protection of neck, groin, arms, & legs but excludes general use gear bags.

### 1.3 ESTIMATED QUANTITIES

A **Centralized** Contract resulting from this Solicitation Will 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 **\$10,000,000** 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 Contract Term of the resulting Contracts could vary substantially from the estimates provided in this Solicitation.

#### 1.4 KEY EVENTS/DATES

<u>Event</u>	<u>Date</u>	<u>Time</u>
IFB Release	January 11, 2021	
Closing Date for First Round of Bidder Questions	January 25, 2021	5:00 PM EST
OGS Procurement Services' Responses to First Round of Bidder Questions	February 3, 2021	
Closing Date for Second Round of Bidder Questions	February 15, 2021	5:00 PM EST
OGS Procurement Services' Responses to Second Round of Bidder Questions	February 22, 2021 (tentative)	
Bid Opening / Due Date for Bids	March 9, 2021	11:00 AM EST
Contract Approval Date / Award Publish Date	Upon OSC Approval	N/A

#### 1.5 NYS CONTRACT REPORTER

Bidders Must register with the New York State Contract Reporter (“NYSCR”) at <https://www.nyscr.ny.gov> in order to receive notifications about this Solicitation. Navigate to the “I want to find contracts to bid on” page to register for your free account. In order to receive email notifications regarding updates to the content or status of a particular ad, you Must “bookmark the ad” on the upper right-hand side of the ad, then return to your Account, view your list of bookmarked ads, and then select the “send me notification updates” option listed to the right of the ad. Answers to all questions of a substantive nature will be posted in the form of a question and answer document and released through the NYSCR. Any updates to Solicitation documents will also be posted and released through the NYSCR.

If you do not opt-in to receive notification updates regarding a particular ad, you Will not receive email notifications regarding updates, including email notifications regarding the posting of the question and answer document and updates to Solicitation documents.

Be advised that submission of responses to this Solicitation that do not reflect and take into account updated information May result in your Bid being deemed non-responsive to the Solicitation.

#### 1.6 BIDDER QUESTIONS

All questions regarding this Solicitation should be submitted using Attachment 7 – *Bidder Questions Form*, citing the applicable Solicitation document name and document section. The completed form Must be emailed to [OGS.sm.SSTSafetySecurity@ogs.ny.gov](mailto:OGS.sm.SSTSafetySecurity@ogs.ny.gov) by the dates and times indicated in Section 1.4 *Key Events/Dates*. Questions submitted after the deadline indicated May not be answered. A Bidder is strongly encouraged to

submit questions as soon as possible. Answers to all questions of a substantive nature Will be provided to all prospective Bidders in the form of a question and answer document which will be posted to the OGS website and Will not identify the Bidder asking the question. Notification of this posting Will be advertised in the NYS Contract Reporter (“NYSCR”). Your company Must select the “opt-in” option within the Contract Reporter ad to receive notification updates of this Solicitation.

If Bidder intends to submit a Bid that deviates from the requirements of this Solicitation in any way, the proposed deviations should be submitted during the *Questions* period so that they May be given due consideration prior to the submission of Bids. See Section 4.11 *Bid Deviations* for additional information.

#### 1.7 NYS COMPTROLLER APPROVAL

Pursuant to the Memorandum of Understanding (“MOU”) dated August 15, 2019 between the Offices of the New York State Governor Andrew M. Cuomo (“Executive”), New York State Comptroller Thomas P. DiNapoli (“OSC”), the State University of New York (“SUNY”), the State University of New York Construction Fund (“SUCF”), the City University of New York (“CUNY”), and the City University of New York Construction Fund (“CUCF”), procurement documents and Contracts awarded under this Solicitation Shall have no force and effect and the State bears no liability unless such procurement documents and Contracts awarded under this Solicitation are approved by OSC or the pertinent pre-audit review period under the MOU has elapsed.

#### 1.8 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING

Pursuant to State Finance Law § 139-j and § 139-k, this Solicitation includes and imposes certain restrictions on communications between OGS and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest posting, on a governmental entity’s website, in a newspaper of general circulation, or in the procurement opportunities newsletter of intent to solicit offers/Bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff, as of the date hereof, are identified on the first page of this Solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Bidder pursuant to State Finance Law §139-j and §139-k. Certain findings of non-responsibility can result in rejection for Contract award and, in the event of two findings within a four-year period, the Bidder is debarred from obtaining governmental Procurement Contracts for four years. Further information about these requirements can be found on the OGS website at: <http://www.ogs.ny.gov/acpl/>.

## 1.9 DEFINITIONS

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

**“Addendum” or “Addenda”** refers to additional or revised provisions of the Solicitation (including the Attachments and Appendices) issued in Writing prior to the receipt of Bids.

**“Authorized User”** refers to entities that meet the definition in Appendix B, *Definitions* and the definitions of either “Police Officer(s)” as defined by subdivision 34 of §1.20 of the New York State Criminal Procedure Law or “Peace Officer(s)” as defined in §2.10 of the New York State Criminal Procedure Law.

**“Awarded Percentage Discount”** refers to the Percentage Discount for a particular Product Line in the contract award, which Must not be reduced for the Contract Term.

**“Ballistic-resistant”** refers to a component of body armor, plates, panels, helmets and visors, shields, or accessories which protects against bullet penetrations and the blunt trauma associated with bullet impacts.

**“Bid Deviation”** refers 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.

**“Bomb Suit(s)” or “Bomb”** refers to an ensemble designed to provide protection for the head, face, neck, thorax/abdomen, pelvis, arms, and legs from explosive devices and materials.

**“Business Day”** refers to Monday through Friday from 8:00 AM – 5:00 PM ET, excluding NYS holidays.

**“Business Entity”** refers to any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute. Note: The defining criteria is the unique FEIN # and NYS Vendor ID #.

**“Bulkload State Agency”** refers to any State agency who does not directly input financial information into SFS; but instead, transfers financial information through a bulkload transaction interface process. Through this process, an internal agency system electronically transmits data to the SFS and the SFS creates data extract files to send back to the internal agency system.

**“Carrier”** refers to a garment whose purpose is to retain the Ballistic-resistant or Stab-resistant plate(s) and provide a means of supporting and securing the plate(s) to the wearer.

**“Combination Armor”** refers to body armor which is both Ballistic-resistant and Stab-resistant. Combination Armor May also be called dual-threat armor or multiple-threat armor.

**“Contract Term”** refers the length of time the **Centralized** Contract Will remain in effect and Will include any renewals, or extensions, or both.

**“CPL”** refers to Compliant Product List published by the National Institute of Justice.

**“Dealer”** refers to a Business Entity who usually purchases from Distributors and sells to the public.

**“Distributor”** refers to a Business Entity which purchases Products directly from a Manufacturer, and then either sells Products directly to Authorized Users (and performs any measurements in accordance with ASTM E3003 or fittings in accordance with the Manufacturer’s Instructions) or sells Products to Dealers for resale to the public.

**“F.O.B”** refers to acronym for Free on Board.

**“Hard Body Armor”** refers to rigid armor systems, plates, inserts, accessories, or semi-rigid armor systems constructed with rigid materials that are designed to provide protection against ballistic, stabbing, fragmentation, and Riot threats.

**“Industrial Funding Fee (IFF)”** refers to the administrative fee imposed by the General Services Administration (GSA) on all transactions on GSA schedule contracts.

**“In Conjunction With Plates”** refers to plates that are designed to provide a specific level of Ballistic-resistant or Stab-resistant protection only when layered with a specified model(s) of body armor listed on the NIJ CPL.

**“List Price”** refers to the published or displayed price at which a Manufacturer recommends its Products be sold to Authorized Users.

**“Manufacturer”** refers to a Business Entity that creates, makes, manipulates, produces, processes, or fabricates Products or something of value, by changing a raw material or commodity from one form to another or creates a new Product or commodity.

**“Manufacturer’s Nationally Published Price List”** refers to the document published or issued in some form by the Manufacturer, which is available to and recognized by the trade, and contains the Manufacturer’s Product or Model Designation, Product Description, and List Price.

**“May”** refers to the permissive in a clause or specification of this IFB or a resulting Contract. “May” does not mean “required.”

**“Must”** refers to the imperative in a Contract clause or specification. Means required, being determinative, or being mandatory, as well as imperative. Also see “Shall” and “Will.”

**“MWBE”** refers to businesses certified as such by Empire State Development’s Division of Minority and Women’s Business Development. NOTE: Businesses eligible to participate in the program Must be owned and operated by women and/or minority group members who are citizens of the United States or permanent resident aliens. Generally, they Must have been in operation for at least one year.

**“Non-State Authorized User”** refers to any Authorized User except for a New York State Agency.

**“NIJ”** refers to 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; Juneteenth Day; Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving Day; and Christmas Day.

**“NYS Net Pricing”** refers to the quantifiable not-to-exceed price for all Products offered, computed by multiplying the List Price by the Percentage Discount.

**“NYS Vendor ID”** refers to 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.

**“OGS Approved Pricing Pages”** refers to the excel file that contains all pricing information for each Contractor’s Centralized Contract, including, but not limited to, Product or Model Designation, Product Description, List Price, Awarded Percentage Discount, NYS Net Pricing, standard delivery timeframes; is posted on the OGS public website; and May be updated by OGS from time to time during the Contract Term.

**“Online State Agency”** refers to a State agency that inputs financial information data directly into SFS.

**“Percentage Discount”** refers to an allowance, reduction, or deduction from the List Price to the NYS Net Pricing expressed as a percentage rounded to two decimal points.

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

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

“**Product Line**” refers to a group of similar or related Products manufactured by a single Manufacturer and identified by a particular name or single brand.

“**Product Description**” refers to the description, such as a particular design, composition, or function of a Product, developed by the Manufacturer, and associated with a particular Product or Model Designation.

“**Product or Model Designation**” refers to the unique identifier (words, letters, numbers, symbols, or combination) assigned by the Manufacturer to describe a style, class, or type of Product, such as a particular design, composition, or function for that Product. Product Designation may also be called Part No., Item No., Catalog No. or Serial No. Model Designation may also be called Model No or Style No.

“**Riot**” or **Riot Suits**” refers to an item of Hard Body Armor which protects against crowd violence.

“**Shall**” refers to the imperative in a Contract clause or specification. Means required, being determinative, or being mandatory, as well as imperative. Also see “Must” and “Will.”

“**SFS**” refers to acronym for Statewide Financial System.

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

“**Soft Body Armor**” refers to body armor, plates, inserts, and accessories constructed of pliable/flexible materials which is Ballistic-resistant and/or Stab-resistant.

“**Special Threat**” refers to stand-alone plates or panels which are designed to provide enhanced protection in a localized area and compliment concealable or tactical armor.

“**Stab-resistant**” refers to a component of body armor which protects against penetration of knife blades or other spike-style weapons.

“**Threat Level**” refers to the level of performance classified by NIJ standards.

“**Trauma Pack**” refers to soft inserts intended to reduce blunt trauma due to a ballistic impact.

“**Trauma Plate**” refers to hard inserts intended to reduce blunt trauma due to a ballistic impact.

“**Vest**” refers to body armor intended to protect the wearer’s torso.

“**Will**” refers to the imperative in a Contract clause or specification. Means required, being determinative, or being mandatory, as well as imperative. Also see “Must” and “Shall.”

“**Written**,” “**Written Communication**,” or “**in Writing**” refers to any type of communication that makes use of words or numbers. Examples include e-mail, Internet websites, letters, proposals, and Contracts.

#### 1.10 ADDENDA

All Addenda issued by Procurement Services for this procurement are expressly incorporated in this Solicitation and any resulting Contract.

### 1.11 RULES OF INTERPETATION

Except where the Manufacturer's Nationally Published Price List uses words of the masculine or feminine gender to describe Products designed for either the masculine or feminine genders, words of the masculine and feminine genders Will be deemed and interpreted to include the neuter gender.

Unless the context otherwise indicates, the singular number Will include the plural number and the plural number Will include the singular number.

The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms, as used in this Solicitation refer to this Solicitation and any resulting Contract.

### 1.12 APPENDICES AND ATTACHMENTS

The following appendices and attachments, attached hereto, are hereby expressly made a part of this Solicitation as fully as if set forth at length herein.

#### APPENDICES

Appendix A – *Standard Clauses for NYS Contracts* (October 2019)

Appendix B – *General Specifications* (April 2016)

Appendix C – *Contract Modification Procedure*

Appendix D – *Federal Funding Terms and Conditions*

#### ATTACHMENTS

Attachment 1 – *Pricing*

Attachment 2 – *NYS Required Certifications*

Attachment 3 – *Encouraging Use of NYS Businesses*

Attachment 4 – *Insurance Requirements*

Attachment 5 – *Bidder Information Questionnaire*

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Attachment 9 – *Distributor Information*

Attachment 10 – *Manufacturer's Certificate*

Attachment 11 – *Product Attestation*

Attachment 12 – *How to Use*

### 1.13 CONFLICT OF TERMS

Conflicts among the documents Will be resolved in the following order of precedence:

1. Appendix A, *Standard Clauses for New York State Contracts*;
2. The Solicitation including all issued Addenda;
3. Appendix B, *General Specifications*;
4. All other appendices and attachments to the Solicitation.

In the event of a conflict among Addenda issued by Procurement Services, the Addendum Procurement Services issued more recently Will prevail.

## SECTION 2 BIDDER QUALIFICATIONS

Bidder is advised that the State's intent in having the requirements listed below is to ensure that only qualified and reliable Contractors perform the work of the resulting Contract. Bidder Will have the burden of demonstrating to the satisfaction of Procurement Services that it can perform the work required. Procurement Services retains the right to request any additional information pertaining to the Bidder's ability, qualifications, financial capacity, financial stability, and procedures used to accomplish all work under the resulting Contract as it deems necessary to ensure safe and satisfactory work. A Bidder Must meet the following qualification:

A Bidder Must be either:

- A. A Manufacturer; or
- B. An authorized Distributor. Distributors Must demonstrate they are authorized by providing a Manufacturer's Certificates for the Product Line(s) Bid (see Section 4.12 *Manufacturer's Certificate*).

**Bids Will not be accepted from Dealers.**

### SECTION 3 SPECIFICATIONS

All Product(s) offered Must meet the following requirements.

- A. All Products offered Must be **new**, not remanufactured, not seconds, and not surplus.
- B. Body Armor, Ballistic-resistant: All models of Ballistic-resistant Vests and plates (except Special Threat Plates or In Conjunction With Plates) Must carry the NIJ Standard-0101.06 July 2008 Protection Levels IIA, II, IIIA, III, or IV certification and Must be included on the CPL with a model status of "active". If NIJ updates this standard, Contractor(s) Must carry the current NIJ Standard certification for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard – 0101.06 July 2008 certifications, Bidders Must submit with their Bid submission:
  - i. An electronic copy of the CPL with each offered model highlighted; and
  - ii. Attachment 11 – *Product Attestation* in electronic format.
- C. Body Armor, Ballistic-resistant Special Threat Plates: All models of Special Threat Plates Must meet the NIJ Standard-0101.06 July 2008. If NIJ updates this standard, Contractor(s) Must meet the current NIJ Standard for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard – 0101.06 July 2008, Bidders Must submit with their Bid submission:
  - i. Attachment 11 – *Product Attestation* in electronic format
- D. Body Armor, Ballistic-resistant In Conjunction With Plates: All models of In Conjunction With Plates Must be used only when layered with a specified model(s) of body armor listed on the CPL.
  - i. The item description in Attachment 1 – *Pricing* must indicate the specified model of body armor listed on the CPL in which is being used with the In Conjunction With Plate; and
  - ii. An electronic copy of the CPL with the specified model of body armor in which the In Conjunction With Plate(s) is layered; and
  - iii. Attachment 11 – *Product Attestation* in electronic format
- E. Body Armor, Stab-resistant: All models of Stab-resistant Vests and plates Must carry the NIJ Standard–0115.00 September 2000 Protection Levels 1, 2, or 3 certification for: Spike and Edged Blade and Must be included on the CPL with a model status of "active". If the NIJ updates this standard, Contractor(s) Must carry the current NIJ Standard certification for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard – 0115.00 September 2000 certifications, Bidders Must submit with their Bid submission:
  - i. An electronic copy of the CPL with each offered model highlighted; and
  - ii. Attachment 11 – *Product Attestation* in electronic format.
- F. Body Armor, Combination Armor: All models of Combination Armor Vests and plates Must carry the NIJ Standard-0101.06 July 2008 Protection Levels IIA, II, IIIA, III, or IV certification and NIJ Standard–0115.00 September 2000 Protection Levels 1, 2, or 3 certification and Must be included on the CPL with a model status of "active". If the NIJ updates either standard, Contractor(s) Must carry the current NIJ Standard certification for both Ballistic-resistant and Stab-resistant Body Armor at time of delivery. To demonstrate proof of compliance with NIJ Standard – 0101.06 July 2008 and NIJ Standard – 0115.00 September 2000 certifications, Bidders Must submit with their Bid submission:
  - i. An electronic copy of the CPL with each offered model highlighted; and
  - ii. Attachment 11 – *Product Attestation* in electronic format

- G. Body Armor, Bomb Suits: All models of Bomb Suits Must meet or exceed the NIJ Standard–0117.01 April 2016. If NIJ updates this standard, Contractor(s) Must meet or exceed the current NIJ Standard for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard – 0117.01 April 2016, Bidders Must submit with their Bid submission:
- i. Attachment 11 – *Product Attestation* in electronic format
- H. Helmets, Ballistic-resistant: All models of Ballistic-resistant helmets Must meet or exceed the NIJ Standard-0106.01 December 1981 Protection Levels IIA, II, or IIIA. If NIJ updates this standard, Contractor(s) Must meet or exceed the current NIJ Standard for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard-0106.01 December 1981, Bidders Must submit with their Bid submission:
- i. Attachment 11 – *Product Attestation* in electronic format
- G. Helmets and Visors, Riot: All models of Riot helmets and visors Must meet or exceed the NIJ Standard-0104.02 October 1984. If NIJ updates this standard, Contractor(s) Must meet or exceed the current NIJ Standard for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard-0104.02 October 1984, Bidders Must submit with their Bid submission:
- i. Attachment 11 – *Product Attestation* in electronic format
- H. Ballistic-resistant Products (except Vests, plates and helmets): All models of Ballistic-resistant Products including shields, clipboards, briefcases, blankets, etc. Must meet the NIJ Standard-0108.01 September 1985 Protection Levels IIA, II, IIIA, III, or IV. If NIJ updates this standard, Contractor(s) Must meet the current NIJ Standard for Products at time of delivery. To demonstrate proof of compliance with NIJ Standard-0108.01 September 1985, Bidders Must to submit with their Bid submission:
- i. Attachment 11 – *Product Attestation* in electronic format

OGS Procurement Services May require additional documentation to determine that Bidder's offer meets the detailed specifications. The Bidder Will be given a date by which the requested documents Must be provided. If the Bidder fails to submit the documentation, the Bid May be considered non-responsive. If Bidder is unable to meet the deadline set forth, the Bidder Must request an extension in Writing prior to the given deadline. Upon review of the extension request, OGS Will either provide a new deadline or if the deadline is not met, consider the Bidder non-responsive and the Bidder's offer Will no longer be considered for an award of contract.

## SECTION 4 BID SUBMISSION

### 4.1 PERFORMANCE AND BID BONDS

There are no bonds required for this Contract. The Commissioner of OGS (Commissioner) has determined that no performance, payment or Bid bond, or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract is required at any time during the resulting Contract Term.

### 4.2 NYS VENDOR FILE REGISTRATION

Prior to being awarded a **Centralized** Contract pursuant to this Solicitation, the Bidder and any Bidder's Distributors who accept payment directly from the State, Must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration Must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to your company and to each of your Distributors (if any) for use on all future transactions with New York State. Additionally, the Vendor File enables a vendor to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York.

If Bidder is already registered in the New York State Vendor File, the Bidder Must enter its Vendor ID on the first page of this Solicitation. Authorized Distributors already registered should list the Vendor ID number along

with the Distributor information. (The Vendor ID number is not the same as a SOCIAL SECURITY NUMBER or a TIN/FEIN number).

If the Bidder is not currently registered in the Vendor File, the Bidder Must request assignment of a Vendor ID from OGS. Bidder Must complete the OSC Substitute W-9 Form ([http://www.osc.state.ny.us/vendors/forms/ac3237s\\_fe.pdf](http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf)) and submit the form to OGS in advance of Bid submission. Please send this document to the Designated Contact identified in the Solicitation. In addition, if an authorized Distributor is to be used that does not have a Vendor ID, an OSC Substitute W-9 form should be completed by each Distributor and submitted to OGS. OGS Will initiate the vendor registration process for all Bidders and Distributors. Once the process is initiated, registrants Will receive an email identifying their Vendor ID and instructions on how to enroll in the online Vendor Self-Service application.

For more information on the Vendor File please visit the following website: <https://osc.state.ny.us/vendors/>

#### 4.3 FORMAT OF BID SUBMISSION

The complete Bid package Must be received by OGS Procurement Services by the date and time of the Bid opening stated in Section 1.4 *KEY EVENTS/DATES*. Late Bids Will be handled in accordance with Appendix B, *Late Bids*.

Bidders are responsible to ensure that all USB-flash-drives and electronic files are properly formatted and accessible. Any Bid pricing or portions thereof submitted on USB-flash-drive that are incomplete or that cannot be opened/accessed May be rejected. With respect to any Bid documents in Excel format, only those cells provided for entering Bid pricing and information are to be accessed by the Bidder. It is recommended that the Bidder open, review and save/download all electronic files to the Bidder's hard drive and/or to a secure back-up location. Only completed files (in the specified format) should be saved to a USB-flash-drive for submittal.

Email or facsimile Bid submissions are not acceptable and Will result in a Bid being disqualified.

Bidders are responsible for the accuracy of their Bids. All Bidders are directed to take extreme care in developing their Bids. Bidders are cautioned to carefully review their Bids prior to Bid submission. A Bid that fails to conform to the requirements of the Solicitation May be considered non-responsive and May be rejected.

#### 4.4 CONTENT

Bidders are required to submit two (2) copies of each of the documents listed in Attachment 6 – *Bidder Submission Checklist* and in the manner specified (i.e., paper or electronic format on a USB-flash drive). Failure to do so May result in the Bid being deemed non-responsive to the Solicitation. Each document should be saved as its own file, properly marked as to its contents, and all documents saved to two (2) USB-flash-drives. Note: all Excel documents Must NOT be locked or password protected by Bidder.

Also, please note that in the case of discrepancies between paper copies and USB-flash-drive submissions of the documents required in both formats, the electronic USB-flash-drive submissions Will take precedence over the paper copy.

A Bidder should note that any indicators or messages that have been built into the attachments are informational only and provided solely for the purpose of assisting Bidders in completing the attachments. The presence or absence of notes or indicators is not a determination by the State as to the sufficiency of the attachments with respect to the Solicitation requirements. Bidders remain responsible for reviewing the attachments to ensure compliance with the Solicitation requirements.

The following lists the forms which Will be reviewed for completeness and accuracy at the time of the Bid Opening. A Bidder Must submit all documents in the manner and format set forth below and in Attachment 6 – *Bidder Submittal Checklist* (i.e., paper or electronic format on two USB flash drives). Failure to do so May result in the Bid being deemed non-responsive.

Each document should be saved as its own file, properly marked as and to its contents, to two (2) USB-flash-drives. If an item is noted as requiring a paper version submission, this Must be provided with original ("wet") ink signature (e.g. no photocopies, electronic, or stamped signatures).

- A. **IFB Cover Page**  
Page #1 of the IFB (cover page/first page of this document) completed, signed, and submitted both in paper and electronic format on two USB flash drives.
- B. **IFB Bidder Certification and Affirmation Page**  
Page #2 of the IFB (the Bidder Certification and Affirmation Page/second page of this document) completed, signed, and submitted both in paper and electronic format on two USB flash drives.
- C. **Attachment 2 – NYS Required Certifications** (see Section 6.21 *NYS FINANCE LAW § 139-l*)  
Completed, signed, and submitted both in paper and electronic format on two USB flash drives.
- D. **Attachment 3 – Encouraging Use of NYS Businesses**  
Completed and submitted in electronic format on two USB flash drives.
- E. **Attachment 4 – Insurance Requirements**  
Documentation, produced at Bidder's sole expense and submitted in electronic format on two USB flash drives, that provides proof of compliance with required insurance as specified in Attachment 4 – *Insurance Requirements*.
- F. **Attachment 5 – Bidder Information Questionnaire**  
Completed and submitted in Excel format on two USB flash drives.
- G. **Attachment 6 – Bidder Submittal Checklist**  
Completed and submitted in Excel format on two USB flash drives
- H. **Attachment 9 – Distributor Information** (see Section 6.33 *DISTRIBUTORS*)  
Completed and submitted in Word format on two USB flash drives. This form is required if the Bidder is a Manufacturer and has Distributors.
- I. **Attachment 10 – Manufacturer's Certificate** (see Section 4.11 *MANUFACTURER'S CERTIFICATE*)  
Completed and submitted in electronic format on two USB flash drives for each Product Line offered. This form is required if the Bidder is a Distributor and not the Manufacturer.
- J. **Attachment 11 – Product Attestation** (See Section 3 *SPECIFICATIONS*) Completed and submitted in electronic format on two USB flash drives for each model of the Product Line offered
- K. **NY State Taxation and Finance form ST-220CA, Contractor Certification** (see Section 6.29 *NYS TAX LAW SECTION 5-a*)  
Completed, signed, notarized, and submitted in paper.
- L. **Equal Employment Opportunity Staffing Plan (EEO 100)** (see Section 6.24. *CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NYS CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN*)  
Completed, signed, and submitted both in paper and electronic format on two USB flash drives
- M. **NYS Vendor Responsibility Questionnaire (For-Profit Business Entity)** (see §6, *NYS VENDOR RESPONSIBILITY*)
- a. Online completion and submission through the NYS VendRep System, with a certification date no more than six (6) months prior to Bid Opening date; OR
  - b. Completed, signed, notarized, and submitted in paper with date of signature no more than six (6) months prior to Bid Opening date.
- N. **Supporting Information**
- a. Addendums for Solicitation, including answers to Bidder's inquiries
  - b. A copy of the CPL with each offered model of Ballistic-resistant/Stab-resistant Vests and plates highlighted. Submitted in electronic format on two USB flash drives.

Receipt of a Bid by OGS does not indicate that OGS has pre-determined a company's qualifications to receive a Contract. Such determination Will be based on the evaluation of a Bid compared to the specific requirements and qualifications contained within this Solicitation and attachments.

In the event a Bidder May need to submit amendments to its Bid prior to the Bid Submission Deadline, any amended pages should show the date of the revision and indicate the portion of the page being changed. Two (2) paper versions of amended page(s), if applicable and two (2) USB-flash-drives should be submitted indicating the date of revision.

Bidder is responsible for ensuring that the most recently updated version of all required documents has been submitted. Any updated versions released after the initial Bid release date Will be posted on the OGS website and announced via the NYS Contract Reporter.

#### 4.5 BID PRICING SUBMITTAL

Pricing Will be collected using Attachment 1 – *Pricing* in accordance with the Instructions tab listed within Attachment 1. Failure to provide pricing at the time of Bid Opening Shall render the Bid non-responsive and result in either the rejection of the entire Bid or those particular Products or Product Lines for which the Bidder did not provide pricing. Bid pricing submitted in a format other than Attachment 1 – *Pricing* May render the Bid non-responsive and May result in the Bid being removed from consideration.

Bidders Must offer an entire Manufacturer's Product Line, excluding products that do not fall within the scope of this Solicitation. Incomplete Product Lines, partial Product Lines, or selected Products from a Product Line (excluding products that do not fall within the scope of this Solicitation) Will not be considered. Failure to offer the entire Product Line Will result in rejection of either the particular Product Line or the entire Bid as non-responsive.

All NYS Net Pricing Must be discounted from List Price. Bidder Must include the applicable current Manufacturer's Nationally Published Price List for each Product Line offered.

For each Product Line being Bid, the Bidder Must offer a single Percentage Discount greater than 0% and Must not propose any markup or charge over the List Price.

Price Must include all shipping charges, handling charges, Customs Duties and charges, and be net, F.O.B. destination any point in New York State, including inside delivery.

The Bidder Must demonstrate reasonableness of price for each Product Line by offering the Percentage Discount to NYS that is the same or better than either:

- A. the Percentage Discount offered to similarly situated governmental entities (i.e. NYS, other states, NASPO ValuePoint, other government cooperatives, federal entities, or other government entities) in an active (executed and in effect) contract,
- OR
- B. (for Bidders which do not have an active contract with a similarly situated government entity,) the pricing or Percentage Discounts offered to the Bidder's best customer.

Where a Bidder holds one or more active contracts with similarly situated government entities, and each active estimated quantity contract has a different Percentage Discount, the Bidder Must offer NYS the most advantageous (highest) Percentage Discount from among all the Bidder's active contracts with similarly situated governmental entities.

Bidders that hold a current NYS Centralized Contract under Award 22926 and propose to offer a lower Percentage Discount than that offered on its current NYS Centralized Contract **under Award 22926** Must meet ALL the following to demonstrate reasonableness of price;

- A. The Bidder Must hold one or more active contracts with similarly situated government entities and Must offer NYS the same or better Percentage Discounts as those provided to these similarly situated government entities;
- B. The active contract with similarly situated government entities Must have been executed within one year of the Bid Opening date of this Solicitation;
- AND
- C. The Bidder Must provide OGS ALL the following:
  - a) The specific costs, excluding profit, that increased and resulted in the Bidder offering NYS a lower Percentage Discount than on its previous NYS Centralized Contract
  - b) The percent that the cost increased, and
  - c) The time period this occurred, in the format of a beginning month and year (e.g. June 2019) and an ending month and year (e.g. October 2020)

If the pricing structure on Bidder's active contract with similarly situated government entities or pricing offered to best customers is not a Percentage Discount (discounted from List Price), but instead a different type of pricing structure (e.g. discount from a different pricing point than List Price, a markup over cost, etc.), the Bidder Must offer NYS a Percentage Discount that is the same or better than the pricing offered on the active contract as if the pricing structure on the current contract was a Percentage Discount.

It is within OGS's discretion to determine whether the Percentage Discount and explanation provided by Bidder is reasonable. OGS reserves the right to request further information such as copies of other governmental contracts, to determine reasonableness of price. In the event OGS determines a Bidder does not demonstrate reasonableness of price for a Product Line, Procurement Services Will require the Bidder to offer NYS a Percentage Discount that complies with the provisions of this section. If the Bidder declines to offer this revised Percentage Discount, then Procurement Services Will not award the Bidder the particular Product Line.

All Percentage Discounts and resulting NYS Net Pricing Must not include the IFF or other contract administration or use fees. Final determination for whether a Percentage Discount and the resulting NYS Net Pricing complies with this requirement resides solely with Procurement Services. Where Procurement Services determines a Bidder has included the IFF or other contract administration or use fees in its Percentage Discount and the resulting NYS Net Pricing, Procurement Services Will either require the Bidder to increase the particular Percentage Discount to reflect removing the fees or not award the particular Product Line.

#### 4.6 PRODUCT DELIVERY TIMEFRAMES

Bidders Must list their standard delivery timeframe for each Product Line Bid as a number of calendar days in Attachment 1 – *Pricing*. This is the number of calendar days required to make delivery after receipt of a Purchase Order from any ordering Authorized User.

#### 4.7 VOLUME DISCOUNTS

Bidder May offer cumulative statewide volume discounts that Will be additional discounts applied to all future orders for all Authorized Users, based upon exceeding threshold quantities of individual items or a specified dollar amount.

The Bidder should indicate the parameters for applying the volume discount(s) and indicate the volume discount(s) offered in the spaces provided on the "Financial Offer" sheet in Attachment 1- *Pricing*.

Volume discounts Will not be considered in determining the best Percentage Discount Bid.

#### 4.8 PROMPT PAYMENT DISCOUNTS

Bidder May offer prompt payment discounts. Bidder should indicate the prompt payment discount(s) offered in the space provided on the "General Questions" sheet in Attachment 5 – *Bidder Information Questionnaire*.

While prompt payment discounts Will not be considered in determining the best Percentage Discount Bid, the Commissioner May consider any prompt payment discount in resolving Bids which are otherwise tied.

#### 4.9 NYS PROCUREMENT CARD DISCOUNT

Bidder May offer NYS Procurement Card discounts. Bidder should indicate the discount offered when using the NYS Procurement Card in the space provided on the "General Questions" sheet in Attachment 5 – *Bidder Information Questionnaire*. Bidder May offer Procurement Card discounts at the transaction level.

NYS Procurement Card Discount Will not be considered in determining the best Percentage Discount Bid.

#### 4.10 BID ENVELOPES AND PACKAGES

All Bids should have a label on the outside of the envelope or package itemizing the following information:

1. **BID ENCLOSED** (preferably bold, large print, all capital letters)
2. Solicitation number (IFB # 23227)
3. Bid Opening Date and Time as stated in Section 1.4 *KEY EVENTS/DATES*
4. The number of boxes or packages (e.g., 1 of 2; 2 of 2)

Failure to complete all information on the Bid envelope and/or package May necessitate the opening of the Bid prior to the scheduled Bid opening.

#### 4.11 BID DELIVERY

Bids Must be delivered to the following address on or before **March 9, 2021, 11:00 a.m. EST** as stated in Section 1.4 Key Events/Dates:

State of New York Executive Department  
Office of General Services  
Procurement Services  
Corning Tower - 38th Floor Reception Desk  
Empire State Plaza  
Albany, NY 12242

Bidder assumes all risks for timely, properly submitted deliveries. The time of Bid receipt is determined by OGS according to the clock at the above-noted location. A Bidder is strongly encouraged to arrange for delivery of Bids to OGS prior to the date of the Bid opening. Late Bids will be rejected, except as provided in Appendix B, *Late Bids*. All Bids and accompanying documentation will become the property of the State of New York and will not be returned.

##### 4.11.1 IMPORTANT BUILDING ACCESS PROCEDURES

Due to COVID-19, Bids cannot be hand delivered by the Bidder, but Must be delivered by common carrier (e.g. USPS, UPS, FedEx, or DHL). Bidder assumes all risks for timely, properly submitted deliveries. The time of Bid receipt is determined by OGS according to the clock at the above-noted location. A Bidder is strongly encouraged to arrange for delivery of Bids to OGS prior to the date of the Bid opening. Late Bids Will be rejected, except as provided in Appendix B, *Late Bids*. All Bids and accompanying documentation Will become the property of the State of New York and shall not be returned.

#### 4.12 MANUFACTURER'S CERTIFICATE

Bids Will be accepted only from Manufacturers or authorized Distributors. Through completion and submission of the Manufacturer's Certificate, the Manufacturer guarantees that the Bidder is an authorized Distributor and has agreed to supply the Bidder with all quantities of Products required by the Bidder in fulfillment of its obligations under any resultant Contract with the State. Bidders Will use the certificate in this Solicitation to document this level of support (see Attachment 10 – *Manufacturer's Certificate*). If the Bidder is the Manufacturer of the Product Line being Bid they do not need to include Attachment 10 – *Manufacturer's Certificate* in its Bid.

The Manufacturer's Certificate is to be forwarded by the Bidder to its proposed Manufacturer for completion and returned to the Bidder for inclusion with its Bid. The Commissioner reserves the right to investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant Contract. See Appendix B, *Participation in Centralized Contracts and Employees, Subcontractors, and Agents* and Section 6.33 *DISTRIBUTORS*.

#### 4.13 BID DEVIATIONS

Bids Must conform to the terms set forth in the Solicitation. As set forth in §1.6 *Bidder Questions*, if Bidder intends to submit a Bid that deviates from the requirements of this Solicitation in any way, the proposed deviations should be submitted during the Questions period so that they May be given due consideration prior to the submission of Bids. Material deviations (including additional, inconsistent, conflicting, or alternative terms) submitted with the Bid May render the Bid non-responsive and May result in rejection of the Bid.

Bidder is advised that OGS Will not entertain any exceptions to Appendix A (*Standard Clauses for New York State Contracts*). OGS Will also not entertain exceptions to the Solicitation or Appendix B (*General Specifications*) that are of a material and substantive nature.

Extraneous terms submitted on standard, pre-printed forms (including but not limited to: Product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with

submissions Will not be considered part of the Bid or resulting Contract but Will be deemed included for informational or promotional purposes only.

#### 4.14 NYS REQUIRED CERTIFICATIONS

A Bidder Must submit the signed New York State Required Certifications (Attachment 2 – *NYS Required Certifications*) with its Bid.

#### 4.15 BID OPENING RESULTS

OGS Procurement Services posts Bid information on the OGS Procurement Services website. The Bid Opening Results webpage makes available the list of bidders that responded to the Solicitation. Such information is anticipated to be available online within two business days after the Bid opening.

The Bid Opening Results Page is available at: <https://ogs.ny.gov/procurement/bid-opening-results-0>.

#### 4.16 BID LIABILITY

The State of New York Will not be held liable for any cost incurred by the Contractor for work performed in the Production of a Bid or for any work performed prior to the formal execution of a Contract.

#### 4.17 FIRM OFFER

Bids Must remain an effective offer, firm and irrevocable, for at least 180 calendar days from the due date, unless the time for awarding the Contract is extended by mutual consent of OGS and the Bidder. A Bid Will continue to remain an effective offer, firm and irrevocable, subsequent to such 180 calendar-day period until either tentative award of the Contract by OGS is made or withdrawal of the Bid in Writing by the Bidder.

#### 4.18 NYS RESERVED RIGHTS

For purpose of this Solicitation, New York State reserves the right, in its sole discretion, to:

- A. Reject any or all Bids received in response to the Solicitation;
- B. Withdraw the Solicitation at any time at the sole discretion of the State;
- C. Make an award under the Solicitation in whole or in part;
- D. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of the Solicitation;
- E. Seek clarifications and revisions of the Bid;
- F. Amend the Solicitation prior to the Bid opening to correct errors or oversights, or to supply additional information as it becomes available;
- G. Direct Bidders, prior to the Bid opening, to submit Bid modifications addressing subsequent Solicitation amendments;
- H. Change any of the schedule dates with notification through the NYS Contract Reporter;
- I. Eliminate any mandatory, non-material requirements that cannot be complied with by all of the prospective Bidders;
- J. Waive any requirements that are not material;
- K. Utilize any and all ideas submitted in the Bids received;
- L. Adopt all or any part of a Bidder's Bid in selecting the optimum configuration;
- M. Negotiate with a Bidder within the Solicitation requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bids;
- N. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's Bid and/or to determine a Bidder's compliance with the requirements of the Solicitation;
- O. Select and award the Contract to other than the selected Bidder in the event of unsuccessful negotiations or in other specified circumstances as detailed in the Solicitation;
- P. Accept and consider for Contract award, Bids with non-material Bid Deviations or non-material Bid defects such as errors, technicalities, irregularities, or omissions;
- Q. Use any information which OGS obtains or receives from any source and determines relevant, in OGS's sole discretion, for the purposes of Bid evaluation and Contractor selection;
- R. Consider a proper alternative where an evidently incorrect reference/parameter/component/Product/model/code number is stated by the State or the Bidder;
- S. Reject an obviously unbalanced Bid as determined by the State;
- T. Conduct Contract negotiations with the next responsible Bidder, should the OGS be unsuccessful in

- negotiating with the selected Bidder;
- U. Make no award for any Product Line, for reasons including, but not limited to, unbalanced, unrealistic or excessive Bidder pricing, a change in Authorized User requirements and/or Products, or an error in the Solicitation (e.g., use of incorrect reference, pack size, description, etc.). In such case, evaluation and ranking of Bids May be made on the remaining Product Lines;
  - V. Offer a Bidder the opportunity to provide supplemental information or clarify its Bid, including, but not limited to, the opportunity to explain or justify the balance, realism, and/or reasonableness of its pricing;
  - W. Award **Centralized** Contracts on a rolling or staggered start basis, either in whole or in part. **Centralized** Contracts awarded in this method will be co-terminus with the first **Centralized** Contract awarded as a result of the Solicitation;
  - X. Unilaterally make revisions, changes, and/or updates to any templates, Appendices (excluding Appendices A, B, and D), and/or attachments (excluding Attachments 1, 4, and 10) to the proposed/awarded **Centralized** Contract without processing a formal amendment and/or modification.

#### 4.19 INCORPORATION

Portions of the successful Bidder's Bid and of this Solicitation Will be incorporated into a final **Centralized** Contract, with a separate document executed by Contractor and OGS. A final **Centralized** Contract Will be formalized either through a separate Contract document or through a Contract Award Letter incorporating the Bid, each having its own provision governing conflict of terms.

### SECTION 5 METHOD OF AWARD

#### 5.1 AWARD OVERVIEW

As specified in Section 1.2 *SCOPE*, this Solicitation includes Soft Body Armor and Hard Body Armor. The resultant **Centralized** Contracts Will be issued under a multiple award structure. For each Product Line, only one award Will be made to the Responsive and Responsible Bidder, who offers the best (highest) Percentage Discount for that Product Line. For a successful Bidder who is awarded more than one Product Line, only one **Centralized** Contract Will be issued.

Bids Will be screened for completeness and conformance with the stated requirements under this Solicitation. Failure to provide properly completed documents or to demonstrate conformity with requirements found in this Solicitation, Will result in a Bidder's removal from further consideration.

#### 5.2 NOTIFICATION OF AWARD

Tentative Contract award(s) Will consist of Written notice to that effect by OGS to a selected Bidder, who Will execute a **Centralized** Contract upon a determination by OGS that the Bidder is Responsive and Responsible.

Non-awardees Will also be notified that their Bid was not selected for award.

### SECTION 6 TERMS AND CONDITIONS

#### 6.1 CONTRACT TERM AND EXTENSION

Notwithstanding the provisions of Appendix B, *Contract Creation/Execution*, the Contract Term Will commence and become effective on the later of (i) October 1, 2021, or (ii) the date of OSC approval of the final, executed **Contract** documents, and Will continue through and including September 30, 2026.

All **Centralized** Contracts let as a result of this Solicitation Will have a co-terminus end date, including those **Centralized** Contracts awarded during any subsequent periodic recruitment. At the State's option, the **Centralized** Contract may be extended for a period of up to one (1) year, 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 Will retain the right to decline a **Centralized** Contract extension offered under this section. Any **Centralized** Contract extension Will be under the same terms and conditions, except for updates to Appendix A, *Standard Clauses for NYS Contracts*; Appendix B, *General Specifications for Centralized Contracts*; Appendix D, *Federal Funding Terms and Conditions*; and other statutory and policy requirements, and subject to the approval of OSC. Any extensions provided under this section Will apply in addition to any rights set forth in Appendix B, *Contract Term – Extension*.

The Contract Term provided for in this section Will extend six (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 six-month period, the definition of Authorized User Will 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 will be based upon the then-existing terms and conditions. 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 Will apply in addition to any rights set forth in Appendix B, *Contract Term – Renewal*. 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 PERIODIC RECRUITMENT

This Solicitation allows for periodic recruitment of additional Contractors during the Contract Term. Recruitment periods are optional at the discretion of the State. Additional recruitment periods Will be advertised in the NYS Contract Reporter. Bidder Must register with the New York State Contract Reporter at <https://www.nyscr.ny.gov> in order to receive notifications regarding any periodic recruitments under this Solicitation. Bids Will be evaluated under substantially the same terms and conditions as the original Bids. Bidders will also be required to submit necessary documentation for any additional applicable statutory requirements in effect at the time of the new Solicitation.

Once awarded a Contract, a Bidder or existing Contractor May not resubmit a Bid for future consideration for a Manufacturer's Product Line already offered on an awarded Contract.

In addition, if a Bid is deemed non-responsive during the initial Solicitation or any recruitment period, a Bidder cannot reapply for a future Contract until the next recruitment period.

## 6.4 PRICE

The following terms and conditions apply to Contract pricing. See also Appendix B, *Pricing*.

### A. Pricing

The Contractor's OGS Approved Pricing Pages Will be published to the OGS website: all List Price, Awarded Percentage Discounts, and NYS Net Pricing Will be rounded to two decimals in the resultant Contract. Pricing updates Will be made in accordance with Section 6.19 *Contract Updates* and Appendix C – *Contract Modification Procedures*.

Contractor May offer increased (greater) Percentage Discounts than the Awarded Percentage Discounts on their **Centralized** Contract to individual Authorized Users based on individual orders but Must not offer Authorized Users lower Percentage Discounts than the Awarded Percentage Discounts.

Once awarded a **Centralized** Contract, Contractors Must not decrease their Awarded Percentage Discount(s) for the entire Contract Term; even if the comparable GSA contract, other governmental contract, or cooperative contract Percentage Discounts are decreased.

Contractor May propose to increase the Awarded Percentage Discount using Appendix C - *Contract Modification Procedure*. However, once OGS approves an increased Awarded Percentage Discount, the Contractor Must not decrease this for the remainder of the Contract Term.

Except as part of a Periodic Recruitment (see Section 6.5 *Periodic Recruitment*) and requests to add Product Line(s) initially awarded to Contractor but subsequently removed from the **Centralized** Contract, Contractors Must not add new Product Lines to their **Centralized** Contract.

Contractors May only submit an update request (see Section 6.19 *Contract Updates*) to remove a Product Line from its **Centralized** Contract a) in accordance with Section 6.8 *Product Lines* or b) if the Contractor is no longer able to honor the Awarded Percentage Discount for a Product Line.

In the event that a Product Line is removed from a **Centralized** Contract, and the Contractor subsequently requests to add the Product Line back onto its **Centralized** Contract, the Contractor Must offer NYS (and all Authorized Users) at least an equal to, or better Percentage Discount for the Product Line than the Awarded Percentage Discount for the Product Line.

In the event a Contractor requests to assign its **Centralized** Contract to another Business Entity, the Business Entity Must not reduce the Awarded Percentage (%) Discount of any Product Line awarded on the Centralized Contract being assigned.

All NYS Net Pricing Must not include the IFF or other contract administration or use fees.

OGS reserves the right to remove Products from Contractor's OGS' Approved Pricing Pages at any time if OGS determines that such Products do not fall within the scope of the Contract or do not comply with the terms and conditions of the Contract.

#### B. Pricing Incentives and Rebates

More favorable pricing can be offered to Authorized Users and it is expected that Authorized Users will obtain the same rebates and special offers, such as regional and national promotional pricing, as provided to other customers. If the promotional pricing offer provides a lower price than that of the NYS Net Pricing, then the Authorized User will receive the lower of the two prices;

#### C. Delivery

Standard delivery Must be provided at no additional expense. Price Must include all Customs Duties and charges, and be net, F.O.B. destination any point in New York State, for orders as designated by the Authorized User, including inside delivery.

Contractor's Must not lengthen the standard delivery timeframe stipulated in the OGS Approved Pricing Pages (see Section 4.6 *Product Delivery Timeframes*) for a Product Line for the Contract Term.

In addition, delivery sites May be expanded (see Appendix B, *Extension of Use*); and

#### D. Taxes

Authorized Users are exempt from State and local sales taxes.

### 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 similarly situated government entity or best customer, 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 **Centralized** Contract, it Must immediately notify the Office of General Services, Procurement Services in Writing. Such notification Will not relieve the Contractor of its responsibilities under the Contract.

Should the Commissioner in his or her sole discretion determine during the Contract Term that (i) the **Centralized** Contract price structure is unworkable, detrimental, or injurious to the State, or (ii) the **Centralized** Contract price structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, the State May terminate the **Centralized** Contract upon 10 business days Written notice mailed to the Contractor.

#### 6.7 ORDERING

Purchase Orders Will be made in accordance with the terms set forth in Appendix B, *Purchase Orders and in Attachment 12 – How to Use*. Authorized Users Must submit orders in Writing via e-mail or electronic dispatch.

**All orders Must reference the **Centralized** Contract number (PCXXXXX) and Purchase Order number.**

Orders submitted Will be deemed received by Contractor on the date submitted by the Authorized User.

Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User via email. Order confirmation Must include the information required in Attachment 12 - *How to Use*.

#### 6.8 PRODUCT LINES

1. If Contractor is not the Manufacturer of a Product Line, the Contractor Must maintain its status as an authorized Distributor throughout the Contract Term. In the event a Contractor is no longer an authorized Distributor to sell a Product Line, the Contractor Must notify Procurement Services and request the removal of such Product Line in accordance with the procedure outlined in Appendix C – *Contract Modification Form and Procedures* (also see Attachment 11 – *Manufacturer's Certificate*).
2. In the Event a Contractor requests to assign its **Centralized** Contract to another Business Entity that is not the Manufacturer of a Product Line, this Business Entity Must either:
  - A. Be an authorized Distributor of the Product Line awarded in such **Centralized** Contract and obtain an Attachment 11 - *Manufacturer's Certificate* from the Manufacturer for the Product Line,

Or

  - B. Remove the Product Line from the **Centralized** Contract.

#### 6.9 PURCHASE 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 will 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

#### 6.10 MINIMUM ORDER

There is no minimum order under the Contracts resulting from this Solicitation.

#### 6.11 PROCUREMENT INSTRUCTIONS FOR AUTHORIZED USERS

The resultant Contracts Will be issued under a multiple award structure. Authorized Users Will procure Products that best meet their form, function, and utility requirements and the procurement instructions for Authorized Users set forth in Attachment 12 – *How to Use*.

Before proceeding with their purchase, Authorized Users will check the list of Preferred Source offerings and are reminded that they Must comply with State Finance Law, particularly §162, regarding commodities/services provided by Preferred Source suppliers.

**As part of their selection among multiple Contractors, Authorized Users Must provide Contractors with the specifications (e.g. level of protection, type of body armor, etc.) for any item they are seeking to purchase.**

Pursuant to State Finance Law § 163(10)(c), at the time of purchase, Authorized Users Must base their selection among multiple Contracts upon which is the most practical and economical alternative that is in the best interests of the State.

#### 6.12 PRODUCT INSPECTION AND ACCEPTANCE PERIOD

Appendix B, *Title and Risk of Loss For Products Other Than Technology Products* has been deleted entirely and replaced with the following:

Title or other property interest and risk of loss Will not pass from the Contractor to the Authorized User until the Products have been received, inspected, and tested for a period of 60 days from the date of delivery; which constitutes acceptance by the Authorized User. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g., signed bill of lading) Will not be deemed or construed as acceptance of the Products received.

Authorized User Will notify Contractor of acceptance upon successful completion of the inspection period.

Non-State Authorized Users and Bulkload State Agencies: If Non-State Authorized Users and Bulkload State Agencies fail to provide notice of rejection to the Contractor by the expiration of the 60-day acceptance period, this Will constitute acceptance by those entities.

Online State Agencies: After the successful completion of the 60-day inspection and acceptance period, Online State Agencies Must select "accept" in SFS for the Product(s) within one (1) Business Day of completing the aforementioned 60-day inspection and acceptance period.

After an Authorized User has provided notice of acceptance to the Contractor for the Products purchased:

1. Title or other property interest and risk of loss Will transfer from the Contractor to the Authorized User,
2. The warranty period under Appendix B, *Warranties* Will commence, and
3. The Contractor May invoice the Authorized User for payment.

#### 6.13 INVOICING AND PAYMENT

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

After receiving the Authorized User's notice of acceptance of Products, itemized on the Purchase Order, the Contractor Will invoice Authorized User for any Products accepted. 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. The Contractor Must provide itemized invoicing for all Products ordered. 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
- **Centralized** Contract Number (PCXXXX)
- Name of Authorized User indicated on the Purchase Order
- NYS Agency Unit ID (if applicable)
- Authorized User's Purchase Order Number (if applicable)
- Order Date
- Invoice Date
- Invoice Number
- Invoice Amount
- Product or Model Designation
- Product Descriptions
- Unit of Measure

- Unit Price
- Quantity

Cost centers or branch offices within an Authorized User May require separate invoicing as specified by each Authorized User. The Contractor's billing system Must 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>.

In the event that a Contractor has added a Distributor (see Section 6.33 *Distributors*) to their Contract to accept Purchase Orders and receive payment on their **Centralized** Contract, the Distributor Must provide its Name, Billing Address, Federal ID Number, and NYS Vendor ID instead of the Contractor's.

#### 6.14 PRODUCT DELIVERY

Appendix B, *Product Delivery* has been deleted entirely and replaced with the following:

The Contractor Must deliver Product anywhere within NYS' boundaries, at the location and time designated by the Authorized User on the Purchase Order, or by other mutual agreement. If there is a discrepancy between the Purchase Order and what is listed on the **Centralized** 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.

##### A. Shipping Dates and Delivery Time

1. All correspondence on shipping dates and delivery time Must be directed to the Authorized User's contact person.
2. Contractor Must provide Written acknowledgement of orders within five (5) business days after receipt of order and Must also provide anticipated shipping date using the standard delivery timeframes listed in their OGS Approved Pricing Pages on the OGS website (see Section 4.6 *Product Delivery Timeframes*).
3. Delivery Must be made to the delivery address specified in the Purchase Order and in accordance with instructions on the Purchase Order.
4. If shipment will not be made within the anticipated shipping/delivery timeframe, the Contractor Must 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 reason for the delay and a revised anticipated shipping and delivery dates. The Authorized User May request the Contractor to provide documentation to support the reason for the shipping/delivery delay. Failure to supply timely, accurate, and Written notification of the delay to the Authorized User, May initiate Contract default proceedings.

#### 6.15 PRODUCT RETURNS AND EXCHANGES DUE TO CONTRACTOR'S ERROR

In addition to the provisions of Section 6.14 *Product Delivery*; Appendix B, *Product Substitution*; and Appendix B, *Rejected Product*, Products returned or exchanged due to quality problems, duplicated shipments, outdated Product, incorrect Product shipped, or Contractor errors otherwise not specified, Will be handled as follows:

1. Upon receipt of Product, Authorized Users Must inspect all Products (see Section 6.12 *Product Inspection and Acceptance Period*).
2. If during the inspection and acceptance period, the Authorized User determines that the Product is not acceptable, the Product Will be returned to the Contractor with no restocking fee or other charges to the Authorized User. Authorized User is responsible to contact the Contractor and inform them of the intent to return the Product.
3. The Contractor Must remove the Product from the Authorized User's premises within ten (10) calendar days of notification of rejection by the Authorized User. If available, the Authorized User should obtain a return authorization from the Contractor.
4. In the event a specified Contract Product becomes unavailable, the Authorized User May require the Contractor to substitute a new Product, which Will perform at the same or better level of performance, at no additional cost or expense to the Authorized User. Authorized User Will determine what constitutes the same or better level of performance. Upon receipt of the substituted new Product, Authorized User Must commence a new inspection period.

### 6.15.1 DISCREPANCIES

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

### 6.16 PRODUCT RETURNS BECAUSE OF AUTHORIZED USER ERROR

Standard stock Products ordered in error by Authorized User May be returned at Authorized User's expense within 30 days of receipt. Product(s) should be in resalable condition (original container, unused).

Contractor can only charge a restocking fee for Product returned or exchanged due to Authorized User error that is determined not to be suitable for resale. The restocking fee cannot exceed the NYS Net Pricing of the returned or exchanged Product.

### 6.17 PRODUCT END-OF-CYCLE RECYCLING/DISPOSAL

If the Manufacturer's established recycling and/or disposal program is available, the Contractor Will provide an overview of the Manufacturer's recycling and/or disposal program.

At the request of the ordering entity, the awarded Contractor is to provide Written instructions on how to use this program. If Manufacturer offers a recycling and/or disposal program, then the Contractor Will provide documentation to program participants that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. Contractor Will provide said records to OGS and/or any other governmental entity with oversight responsibility, upon request. Recycled Ballistic-resistant Vests Must be tracked by serial number throughout the recycling process.

### 6.18 CONTRACT ADMINISTRATION

Contractor Will 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 will be set forth in Attachment 5 – *Bidder Information Questionnaire*. Contractor Must notify OGS within five Business Days if its Contract Administrator, Emergency Contact, or Customer Service employees change, and provide an interim contact person until the position is filled. Changes should be submitted electronically via email to the OGS Contract Management Specialist.

### 6.19 CONTRACT UPDATES

Centralized Contract Modifications

- A. OGS, an Authorized User, or the Contractor May suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein May only be made with mutual written agreement of the parties, subject to approval by OSC. Modifications May take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new Products at the same or better price level is an example of an update. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.
- B. Updates to the Centralized Contract and the Appendices May be made in accordance with the contractual terms and conditions to incorporate new Products, make price level revisions, delete Products, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.
- C. Notwithstanding the foregoing, OGS May unilaterally make revisions, changes, and/or updates to any templates, Appendices (excluding Appendices A, B, and D), and/or Attachments (excluding Attachments 1, 4, and 10) to the **Centralized** Contract without processing a formal amendment and/or modification.
- D. OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract but are judged to be in the best interest of the State. Such modifications are deemed

amendments to the Centralized Contract and May require negotiations between Contractor and OGS before execution.

- E. All modifications proposed by Contractor Will be processed in accordance with Appendix C, Contract Modification Procedure. The Contractor Will submit all requests in the form and format contained in Appendix C, *Contract Modification Procedure*. The form contained within Appendix C is subject to change at the sole discretion of OGS.
- F. Modifications proposed by OGS or an Authorized User, including updates and amendments, Will be processed in accordance with the terms of the Centralized Contract and Appendix B, *Modification of Contract Terms*, provided that an Authorized User Must not agree to any less advantageous terms and conditions than those in the **Centralized Contract resulting from this Solicitation**.

#### 6.20 NYS FINANCIAL SYSTEM (SFS)

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

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

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

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

#### 6.21 NYS FINANCE LAW § 139-I

Pursuant to NYS State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, Shall contain a certification that the bidder has and has implemented a Written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy Shall, at a minimum, meet the requirements of NYS Labor Law § 201-g.

NYS Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers May utilize to meet the requirements of NYS Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>.

Pursuant to NYS Finance Law § 139-I, any bid by a corporate bidder containing the certification required above Shall be deemed to have been authorized by the board of directors of such bidder, and such authorization Shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder Shall so state and Shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review

and consideration of such statement, OGS May reject the bid or May decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on Attachment 2 – *NYS Required Certifications*, which Bidder Must submit with its bid.

## 6.22 INSURANCE

The Contractor Must maintain in force at all times during the Contract Term, policies of insurance pursuant to the requirements outlined in Attachment 4 – *Insurance Requirements*.

## 6.23 REPORT OF CONTRACT USAGE

Contractor Must submit Attachment 8 – *Report of Contract Usage* including total sales to Authorized Users of the resulting Contract by the Contractor, and all sales by the Contractor's authorized Distributors approved by OGS on Contract, *no later than 15 days after the close of each calendar quarter*. If the Contract period begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be included in the quarterly report.

Contractors Must specify if any authorized 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 email in Microsoft Excel to OGS Procurement Services, to the attention of the individual listed on the front page of the Contract Award Notification and will 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 Authorized User purchases May be required by OGS and Must be supplied upon request. Failure to submit reports on a timely basis May result in Contract cancellation and designation of the Contractor as non-responsible.

## 6.24 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NYS CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

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. Form EEO - 101 - Workforce Utilization Reporting Form (Commodities and Services) (“Form EEO-101-Commodities and Services”)
  - 1. The Contractor Shall submit, and Shall require each of its subcontractors to submit, a Form EEO-101-Commodities and Services to OGS 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. The Form EEO-101-Commodities and Services Must be submitted electronically to OGS at [EEO\\_CentCon@ogs.ny.gov](mailto:EEO_CentCon@ogs.ny.gov) on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.
  - 2. Separate forms Shall be completed by Contractor and all 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 submit the Form EEO-101-Commodities and Services 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 submit the Form EEO-101-Commodities and Services 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 and conviction and prior arrest.

#### IV. Contract Goals

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women’s Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

#### B. Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts Shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
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>

#### 6.25 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

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

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

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

Bidder/Contractor is encouraged to contact the 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/>

#### 6.26 RECALLS

The Contractor Must immediately notify the OGS Procurement Services of any recalls pertaining to Contract Products.

#### 6.27 OVERLAPPING CONTRACT PRODUCTS

Products available under the resulting Contract May also be available from other New York State Contracts. Authorized Users will be advised to select the most cost-effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

#### 6.28 NYS VENDOR RESPONSIBILITY

OGS conducts a review of prospective Contractors ("Bidders") to provide reasonable assurances that the Bidder is Responsive and Responsible. A For-Profit Business Entity Questionnaire (hereinafter "Questionnaire") is used for non-construction Contracts and is designed to provide information to assess a Bidder's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a Bid, Bidder agrees to fully and accurately complete the Questionnaire. The Bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Bidder is responsible, and that the State will be relying upon the Bidder's responses to the Questionnaire, in addition to all other information the State May obtain from other sources, when making its responsibility determination.

OGS recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website at <http://www.osc.state.ny.us/vendors/index.htm> or to enroll, go directly to the VendRep System online at <https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system>.

Vendors Must provide their New York State Vendor Identification Number when enrolling. For information on how to request assignment of a Vendor ID, see the *NYS Vendor File Registration* section. OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Bidders opting to complete and submit the paper questionnaire can access this form and associated definitions via the OSC website at [http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm).

In order to assist the State in determining the responsibility of the Bidder prior to Contract award, the Bidder Must complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the Bid due date. A Bidder's Questionnaire cannot be viewed by OGS until the Bidder has certified the Questionnaire. It is recommended that all Bidders become familiar with all of the requirements of the Questionnaire in advance of the Bid opening to provide sufficient time to complete the Questionnaire.

The Bidder agrees that if it is awarded a Contract the following Shall apply:

The Contractor Shall at all times during the Contract Term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS, 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, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or 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 issues a Written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner May terminate 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 at the Contractor's expense where the Contractor is determined by the Commissioner of OGS to be non-responsible. In such event, the Commissioner of OGS 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 **Will** 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.

#### 6.29 NYS TAX LAW SECTION 5-a

Tax Law § 5-a requires certain Contractors awarded State Contracts for commodities, services and technology valued at more than \$100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State is in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Contractor is required to file the completed and notarized Form ST-220-CA with the Bid to OGS certifying that the Contractor filed the ST-220-TD with DTF. Only the Form ST-220-CA is required to be filed with OGS. The ST-220-CA can be found at [https://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The ST-220-TD can be found at [https://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Contractor should complete and return the certification forms within five (5) business days of request (if the forms are not completed and returned with Bid submission). Failure to make either of these filings may render a Contractor non-responsive and non-responsible. Contractor **Shall** take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law. The ST-220-TD only needs to be filed once with DTF, unless the information changes for the Contractor, its affiliates, or its Subcontractors.

Vendors may call DTF at 518-485-2889 with questions or visit the DTF web site at <https://www.tax.ny.gov/> for additional information.

#### 6.30 "OGS OR LESS" GUIDELINES

Purchases of the Products included in the Solicitation and resulting Contract are subject to the "OGS or Less" provisions of State Finance Law § 163(3)(a)(v). This means that State Agencies can purchase Products from sources other than the Contractor provided that such Products are substantially similar in form, function or utility to the Products herein and are (1) lower in price and/or (2) available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they Must provide the State Contractor an opportunity to match the non-Contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less"

flexibility Must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

### 6.31 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 (<http://www.ogs.state.ny.us/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.

### 6.32 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.

### 6.33 DISTRIBUTORS

The following terms and conditions apply to Contractors who are the Manufacturer and May use Distributors as alternate distribution sources.

#### A. Conditions of Distributors' Participation

Distributors Must be approved in advance by OGS as a condition of eligibility under the Contract. The State also reserves the right to rescind any such participation, limit the number of Distributors, or request that Contractor name additional Distributors, in the best interests of the State, at the State's sole discretion, at any time. Contractor Will have the right to qualify Distributors and their participation under Contract by Product Line, contracting program (e.g., government/educational sales), geographic region, size/sales volume, technical training or other criteria ("qualifying criteria"), provided that:

1. such qualifying criteria are uniformly applied to all potential Distributors based upon Contractor's established, neutrally applied commercial/governmental program criteria, and not to a particular procurement;
2. the State Will have the right to require Contractor disclosure of all general categories of qualifying criteria at any time during the Contract Term;
3. those qualifying criteria met by the Distributor Must be identified in Distributor designations in Attachment 9 – *Distributor Information* at the time that Distributor approval is requested; and,
4. immediate advance notice is provided to OGS in the event that a change in Distributor's status occurs during the Contract Term.

All Distributors who have been approved in accordance with the foregoing paragraph Must be eligible to quote lower pricing for procurements under the Centralized Contract which meet their qualifying criteria. Contractor warrants and represents that it Will not, directly or indirectly, by agreement, communication or any other means, restrict any Distributor's participation or ability to quote a particular order.

#### B. Designation of Distributors

When Distributors are submitted for approval, Contractor Must provide the State, in advance, with all necessary ordering information, billing addresses, Federal Identification numbers, and NYS Vendor ID in the format requested in Attachment 9 – *Distributor Information*. Contractor Will also specify whether orders Must be placed directly with Contractor or May be placed directly with designated Distributors.

#### C. Responsibility for Reporting/Performance

Contractor Will be fully liable for Distributors' performance and compliance with all terms and conditions of the **Centralized** Contract. Product purchased through Distributors Must be reported by Contractor in the required quarterly sales reports to the State as a condition of payment. In addition to inclusion of Distributors volume in the Contractor's sales reporting obligation to the State, at the request of an Authorized User, the Distributor Will provide the Authorized User with reports of the individual Authorized User's Contract activity with the Distributor.

#### D. Applicability of Terms

Product ordered directly through Distributors Will be limited to Products previously approved for inclusion under this **Centralized** Contract and listed on Contractor's OGS Approved Pricing Pages on the OGS website and Will be subject to all terms and conditions of this **Centralized** Contract as a condition of Distributor participation.

### 6.33.1 PROHIBITION OF DEALERS

Contractor Must not either propose to add a Dealer to their **Centralized** Contract or use a Dealer on Contract. Procurement Services Will not approve the addition of any Dealer to a **Centralized** Contract. Final determination for whether a Business Entity is or is not a Dealer resides solely with Procurement Services.

### 6.34 NEW ACCOUNTS

The 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 Will not be required to provide credit references.

### 6.35 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.

### 6.36 INSTRUCTION MANUALS

At the time of delivery, Contractor Will provide a complete Manufacturer's instruction manual for the Product supplied to the Authorized User.

### 6.37 CONTRACTOR'S INSTRUCTIONS:

The Contractor Will assist the Authorized Users with obtaining the most appropriate equipment for the agency's needs. This May include verbal information, printed literature, or Manufacturer's webpage or videos. The extent of involvement Will be commensurate with purchase size and complexity.

Contractors and Distributors listed on a **Centralized** Contract (see Section 6.33 *Distributors*) Will also provide Authorized Users with additional Manufacturer's guidance upon request. This guidance May include, but is not limited to:

- A. Measurement in accordance with ASTM E3003, Standard Practice for Measurement of Body Armor Wearers and Fitting of Armor, and
- B. Fittings using sizing instructions provided by the Manufacturer

**Authorized Users Will determine what, if any, guidance, measurements, or fitting they require to be provided**

#### 6.38 PREFERRED SOURCE

§162 of the State Finance Law requires that Authorized Users afford first priority to the Products and 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 (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such Products Services 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.

#### 6.39 ONGOING COMPLIANCE

Awarded Contractors Must comply with all applicable federal, state, and local laws and regulations. Contractors are responsible for maintaining all necessary permits and licenses required to sell Products available under Contracts awarded pursuant to this Solicitation. Contractors Must keep records of all sales, disposals, and transfers in compliance with all applicable laws and regulations and will provide said records to OGS and/or any other governmental entity with oversight responsibility, upon request.

#### 6.40 CAPTIONS

The captions contained in this Solicitation and resulting Contract(s) are intended for convenience and reference purposes only and Will in no way be deemed to define or limit any provision thereof.

#### 6.41 SEVERABILITY

If any provision of the **Centralized** Contract is deemed invalid or unenforceable by a New York State or Federal Court of Competent Jurisdiction, such determination Will have no effect on the balance of the **Centralized** Contract, which Will be enforced and interpreted as if such provision was never included in this **Centralized** Contract.