Introduction

OGS Procurement Services is providing this document to assist both Contractors and Authorized Users (AUs) on how to correctly use the Kitchen and Laundry Equipment Contracts. These guidelines do not relieve the Contractors and AUs from complying with the terms and conditions of the awarded contracts or with all applicable statutes, regulations, AU internal procurement guidelines, policies and procedures as well as control agency requirements. This document is a living document that may be revised by OGS Procurement Services at any time.

Scope

The scope of the Contract includes residential and commercial kitchen and laundry equipment, appliances, and related accessories. Product options, including but not limited to, maintenance and support services, extended warranties (beyond the standard Warranties section of Appendix B), for the kitchen and/or laundry equipment, appliances and related accessories are also included.

The scope of this Solicitation does not include design services, Installation and/or maintenance requiring Public Works, used or refurbished products, removal of existing equipment, or custom products. Installation services which are considered Public Works in accordance with New York State Labor Law are not permitted. See specific information provided in Solicitation Section 6.3 – Price and 6.7 – Public Works.

Product Categories

This Contract includes the Product Lots and Sub-Lots listed below:

LOT #	Title	Sub-Lot	Examples of Equipment, Appliances, and Related Accessories
1.	Commercial Kitchen	a. Food Prep, Storage and Transport b. Refrigeration c. Cooking, Holding and Warming d. Dishwashers	a. Mixers, slicers, food prep tables b. Reach-ins, walk-ins, freezers, cook chill c. Ovens, steamers, heated holding cabinets. d. Dishwashers, racks, dish tables.
2.	Commercial Laundry	Not applicable	Commercial washers and dryers
3.	Residential Kitchen	Not applicable	Residential refrigerators, ranges, ovens, microwaves, dishwashers
4.	Residential Laundry	Not applicable	Residential washers and dryers

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.

Preferred Source Products

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

Procurement Instructions

The following procurement instructions for Authorized users shall be published on the OGS website for the resultant Contract Award as a stand-alone document separate from the Contract. OGS reserves the right to change the instructions in the stand-alone document, once published, in non-material and substantive ways without seeking a Contract Amendment. The resultant Contracts will be issued under a multiple award structure. Authorized Users shall procure Products that best meet their form, function, and utility requirements.

A. Each Contractor's approved Attachment 1 – *Pricing*, and Attachment 10 – *Contractor/Reseller/Distributor Information Sheet* will be posted on the OGS website so that Authorized Users can find Contract pricing information, Contractor and Reseller/Distributor contract information, prompt payment discounts, and NYS Purchasing Card Information.

B. When utilizing the Contract(s), the Authorized User should be familiar with and follow the terms and conditions governing its use. The Authorized User is responsible for compliance with the requirements of public procurement processes. The Authorized User, when purchasing from OGS Contracts, should also hold the Contractor accountable for compliance with Contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible. Bidders are encouraged, though not required, to self-identity Products meeting EO22 requirements within the Product name/description on their Price List. Authorized Users are strongly encouraged to confirm the accuracy of the entries by contacting the Contractor directly.

Authorized Users have the responsibility to document purchases which should include:

a. A statement of need and associated requirements;
b. Obtaining all necessary prior approvals;
c. A summary of the Contract alternatives for the purchase, if any; and
d. The reasons supporting the resulting purchase (e.g., show that the selection among multiple Contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

C. All State agencies, political subdivisions, and public benefit corporations (which include most public authorities) having their own purchasing agency are required to purchase approved products and services from Preferred Sources in accordance with § 162 and § 163 of the New York State Finance Law. Before proceeding with their purchase, such Authorized Users shall check the list of Preferred Source Program offerings for Products that meet the form, function, and utility required. These Authorized Users are reminded that they must comply with State Finance Law § 162, which requires that they afford first priority to the commodities and services of Preferred Source suppliers, which include the Division of Correctional Industries (Corcraft), the National Industries for the Blind New York (NIMBY), and NYS Industries for the Disabled (NYSID), when such commodities or services meet the form, function, and utility of the Authorized User, and the price offered by Corcraft does not exceed a reasonable fair market price, and the price offered by NIMBY and NYSID is within 15% of prevailing market prices. If a Preferred Source offering does not meet an Authorized User's form, function, and utility, or the Preferred Source price is more than fair market price or more than 15% above prevailing market prices, then the Authorized User may use this Contract.

D. Prior to making a purchase, any **State Agency Authorized Users** whose systems are managed or administered by New York State Office of Information Technology (ITS), must contact their Deputy Commissioner for Technology to determine if an ITS owned or managed service is available for use. Agencies are reminded of the requirement for an approved Plan to Procure in accordance with the ITS Plan to Procure Policy, available via https://its.ny.gov/system/files/documents/2023/07/nys-p08-001-plan-to-procure.pdf, with exceptions to technology standards granted in limited circumstances.

E. The Contracts resulting from this Solicitation will be Centralized Contracts issued under a multiple award structure. 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. Authorized Users are required to obtain three (3)

quotes when multiple Contractors offer Products that are identical to the Product being sought (e.g., multiple Contractors offer a Product that has an identical manufacturer's model code). Authorized Users are strongly encouraged to seek a minimum of three (3) quotes, where possible, when multiple Contractors offer Product(s) that are similar in nature to the Product being sought (e.g., multiple Contractors offer a Product that is a similar size, style and/or material). Authorized Users are also encouraged to seek better than Contract pricing for all items, especially when purchasing in volume, as Contractors may not automatically offer volume discounts.

Price

Price includes all customs, duties, delivery charges and is F.O.B. destination any point in New York State, for orders, as designated by the Authorized User. (see *Product Delivery*).

In addition, upon mutual agreement, delivery locations may be expanded per the "Extension of Use" clause (see *Extension of Use*).

It is OGS's intention that all Contractor price lists be maintained and updated regularly to keep Product offerings, pricing, Product numbers and Product descriptions current. Contractors are required to honor their posted contract pricing at all times and may not charge greater than Contract price at any time during the Contract term. Contractor's pricing is posted on the OGS website.

Discounts

Discounts quoted are to be firm for the entire period of the contract, and no discount reductions will be allowed at any time. Discount increases are permitted at any time. This contract includes the following discounts:

Product Discount – The Contractor shall offer a single minimum discount percentage greater than 0% (except for Additional Offerings) for each manufacturer offered, in each Category bid, from their regularly published commercial price list. The same manufacturer discount must apply to all products by that manufacturer within the Product Lot/Sub-Lot.

The Contractor may offer an additional discount for various reasons and are encouraged to provide price decreases or discount increases at any time to the Authorized Users.

The Contractor may also offer the following discounts in addition to those listed above. To find out if a Contractor offers these discounts, please check the Contractor Information Summary page, posted on the OGS website.

- **Volume Discounts** – The Contractor may offer volume discounts. Volume discounts may be applied per order, and additional discounts are applied to individual orders over a specified dollar amount.

- **Procurement Card Discount** – The Contractor may offer an additional discount for purchases made with the NYS Purchasing Card.
- **Prompt Payment Discount** – The Contractor may offer a prompt payment discount for payments made in less than 30 days after receipt of a proper invoice.

Minimum Order
There is no minimum order for this Contract.

Ordering
Purchase Orders shall be made in accordance with the terms set forth in Appendix B, *Purchase Orders*. Authorized Users may submit orders over the phone, and, if available, may submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted shall be deemed received by Contractor on the date submitted.

All orders shall reference Contract number, requisition, and/or Purchase Order number (if applicable). Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

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

The Contractor is required to provide the Authorized User with one invoice for each Purchase Order at the time of delivery. The invoice must include detailed line-item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

- Contractor Name
- Contractor Billing Address
- Contractor Federal ID Number
- NYS Vendor ID Number
- Account Number
- NYS Contract Number
- Name of Authorized User indicated on the Purchase Order
- NYS Agency Unit ID (if applicable)
- Authorized User's Purchase Order Number
- Order Date
- Invoice Date

- Invoice Number
- Invoice Amount
- Product Descriptions
- Unit Price
- Quantity
- Unit of Measure
- Dates of Service (if applicable)

Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying ordering systems in use by different Authorized Users. Visit the following link for further guidance for vendors on invoicing: https://bsc.ogs.ny.gov/nys-vendors

Product Delivery

Delivery of all Contract Products shall be made in accordance with Appendix B, *Product Delivery and Shipping/Receipt of Product.* Delivery shall be F.O.B. Destination any point in New York State for orders, as designated by the ordering agency, including delivery, which means bringing the truck to the loading dock or loading area and bringing the load to the tailgate of the truck for agency personnel to remove the load without entering the truck. Standard shipping costs are to be prepaid by Contractor and, when determining the NYS Net Price, shall not be separately added to the Authorized User's invoice.

Inside delivery is intended for essentially free-standing equipment and appliances when the ordering agency is unable to bring it from the dock to the point of use. It shall consist of removal from the delivery truck, bringing to the point of use, uncrating, minor assembly, leaving ready for use and removal of debris. This cannot be applied to installations that require Public Works, please see Section 6.7 – Public Works. Contractor may include an additional fee for inside delivery with the quote. Contractor shall provide a detailed written statement of such additional charges to the Authorized User; the Authorized User shall determine whether such charges are appropriate and should be agreed to prior to acceptance of an order and such costs shall be prepaid by the Contractor and added to the invoice.

Product Returns and Exchanges

In addition to the provisions of Appendix B, *Title and Risk of Loss*, *Product Substitution*, and *Rejected Product*, Products returned or exchanged due to quality problems, duplicated shipments, outdated Product, incorrect Product shipped, Contractor errors otherwise not specified, or Products returned or exchanged due to Authorized User errors, shall be replaced with specified Products or the Authorized User shall be credited or refunded for the full purchase price.

Products shall be replaced within ten (10) business days of written notification to the Contractor of the Authorized User's intent to return or exchange the Product. Contractor can charge only 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 net price of the returned or exchanged Product.

Any credit or refund shall be applied against the next bill/invoice submitted by the Contractor to the Authorized User. If no credit or refund, or only a partial credit or refund, is made in such fashion, the Contractor shall pay to the Authorized User the amount of such credit or refund or portion thereof still outstanding, within 30 calendar days of demand.

Instruction Manuals

At the time of delivery, Contractor shall provide a complete instruction manual for the Product and for each component supplied, as applicable, to the Authorized User.

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. Requests for extension of use must be sent via e-mail to: OGS.sm.customer.services@ogs.ny.gov.

New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions. Authorized Users (NYS) must be given priority with regard to Product availability and delivery. Additional States permitted by OGS to use the Contracts resulting from this Solicitation may add their own terms and conditions although they may not conflict with OGS'. Additional States may not charge any fees to the Contractor(s) awarded from this Solicitation. OGS' terms and conditions, including this Section, may not be modified in any way by another State's terms and conditions. All requests must be approved by OGS prior to Contract use.

"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.

Non-State Agencies Participation in Centralized Contracts

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B *Participation in Centralized Contracts*. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), the terms of the *Price* clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS web site (https://online.ogs.ny.gov/purchase/snt/othersuse.asp). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.