

State of New York Executive Department
Office Of General Services
New York State Procurement (NYSPRO)
Corning Tower Building - 38th Floor
Empire State Plaza
Albany, New York 12242
<http://www.ogs.ny.gov>

CONTRACT AWARD NOTIFICATION

Title	: Group 05302 - PHOTOVOLTAIC SYSTEMS NATIONAL SOLAR TECHNOLOGIES (Statewide) Classification Code(s): 15, 26, 30
Award Number	: <u>PGB - 21806</u>
Contract Period	: July 10, 2009 through December 8, 2018
Bid Opening Date	: May 11, 2009
Date of Issue	: July 10, 2009 (Revised 03/21/2014)
Specification Reference	: As Incorporated Herein
Contractor Information	: Appears on Page 2 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : Ruth K. Quezada Title : Contract Management Specialist I Phone : 518-473-2801 Fax : 518-474-1160 E-mail : Ruth.Quezada@ogs.ny.gov	Customer Services Phone : 518-474-6717 Fax : 518-474-2437 E-mail : customer.services@ogs.ny.gov

**The New York State Procurement values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This Award covers the Statewide availability for Photovoltaic Systems which includes Solar Energy Systems and Ancillary Services related to power distribution equipment as presented in the contractors General Services Administration Contract [GS-07F-0108J](#). See also other awards for similar systems under Group number 05302 using the search feature @ <http://www.ogs.ny.gov/Purchase/Search/default.asp>

PR # 21806

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT.#/ NYS Vendor ID#</u>
PC64694	NATIONAL MANUFACTURING & DISTRIBUTION D/B/A NATIONAL SOLAR TECHNOLOGIES	800-310-7413 716-683-2505 Fax: 716-683-8655	161490476 1000057219
SB	166 TAYLOR ROAD DEPEW, NY 14043	Email: pv@nationalsolaronline.com Website: www.nationalsolaronline.com	

NOTE: National Solar Technologies will accept NYS Procurement Card for orders not to exceed \$15,000. National Solar Technologies will honor orders for less than the minimum order specified in the master contract.

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

**INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" and "Electronic Payments" in this document.)**

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE NEW YORK STATE PROCUREMENT.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

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

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The New York State Procurement supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

(continued)

NOTE TO AUTHORIZE USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

REQUEST FOR CHANGE:

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

CONTRACT PAYMENTS:

Payments cannot be processed by State facilities until the contract products have been delivered in satisfactory condition or services have been satisfactorily performed. Payment will be based on any invoice used in the supplier's normal course of business. However, such invoice must contain sufficient data including but not limited to contract number, description of product or service, quantity, unit and price per unit as well as federal identification number.

State facilities are required to forward properly completed vouchers to the Office of the State Comptroller for audit and payment. All facilities are urged to process every completed voucher expeditiously giving particular attention to those involving cash discounts for prompt payment.

If the contract terms indicate political subdivisions and others authorized by law are allowed to participate, those entities are required to make payments directly to the contractor. Prior to processing such payment, the contractor may be required to complete the ordering non-State agency's own voucher form.

See "Contract Billings" in Appendix B, OGS General Specifications.

ELECTRONIC PAYMENTS:

The Office of the State Comptroller (OSC) offers an "electronic payment" option in lieu of issuing checks. To obtain an electronic payment authorization form visit the OSC website at www.osc.state.ny.us or contact them by e-mail at epunit@osc.state.ny.us or by phone at 518-474-4032.

NOTE TO CONTRACTOR:

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

NOTE TO AGENCY:

Orders under this contract are to be submitted directly to the contractor.

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WAGE RATES:

It is incumbent upon the contractor(s) to pay the prevailing rate of wages as established by the New York State Department of Labor at the time of installation. Rates in effect at the time of the bid opening were contained in the bid documents for this contract award.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State contracts. Agencies should select the most cost effective procurement alternative that meets their program requirements and maintain a procurement record documenting the basis for the selection.

CONTRACT INFORMATION:

Contractor has entered into a contract with the State of New York under the terms and conditions set forth in the Master Contract (General Services Administration GS-07F-0108J) for use by New York State agencies, political subdivisions and others authorized by law. All the terms, conditions, covenants and representations contained herein and in the Master Contract and any amendments thereto, except as modified by this document, are hereby incorporated by reference and deemed to be a part of this contract as if fully set forth at length herein.

The following SIN numbers are included:

SIN 206-3 - Alternative and Renewable Energy Solutions, including Solar Energy Systems and Solar Lighting, Fuel Cells, Wind Power

SIN 412-50 - Ancillary Services related to Power Distribution Equipment - Relating to and ordered in conjunction with products purchased under the supply Schedule contract. Including, but not limited to, services such as installation (design through startup), maintenance, and training. **EXCLUDES:** Construction as defined by FAR 2.101; Architectural Engineering Services (A&E) under the Brooks Architect-Engineers Act as stated in Federal Regulation (FAR) Part 36; personal services; and stand-alone services applicable to the Service Contract Act. The terms and conditions of this Agreement shall supersede any inconsistent terms and conditions set forth in the Master Contract.

ADDITION OF PRODUCTS:

Subsequent to award, consideration may be given to the addition of products to a contract as a part of the price list if such products are:

- Needed by a client agency;
- Similar to those already awarded, or are of the same product line;
- Priced commensurately with other products already awarded.

CONTRACT UPDATES - ADDITION AND DELETION PRODUCTS:

Product changes to Contract are addressed in the following manner. In order to expedite processing of a change request that involves more than one specified category below, each request should be submitted separately to OGS.

- a) **AUTO ADDS / DELETIONS** – “Auto Adds/Deletions” are Contract changes and updates made in accordance with the previously approved Contract pricing formula; e.g., a “discount from list” or pricing based on an approved GSA-based price Schedule. “Auto Adds/Deletions” include: i) adding new products within the established, previously approved pricing structure, ii) lowering pricing for Products previously incorporated under the Contract, and iii) deleting Products previously incorporated under the Contract. Contractor shall forward the updated Contract price list to OGS for prior approval before changes (additions or deletions) are made to the Contract. Contractor may not supply new product offerings until after receipt of OGS approval. While price decreases (ii) may take effect at any time, Contractor shall provide to OGS new updated price lists. For category (iii) Auto Deletions, Contractor must supply documentation supporting the unavailability of the product to the US market. Contractor should note, however, that all “Auto Adds” or Deletions approved by OGS are subject to a post audit by the Office of the State Comptroller.

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CONTRACT UPDATES - ADDITION AND DELETION PRODUCTS: (Cont'd)

- b) **REGULAR ADD** – “Regular Adds” are requests for i) price increases for Products incorporated under the Contract for other than previously approved pricing structure, and ii) addition of new products to the Contract which do not fall under the previously established price structure or discounts for Product types previously approved under the Contract. Regular Adds include but are not limited to newly added manufacturer’s product lines, re-bundled Products or Services, etc. Regular Adds must be submitted to OGS for prior approval, and must be accompanied by a justification of reasonableness of price. Regular Adds are subject to pre-audit by the Comptroller. If approved, OGS staff will notify Contractor in writing. Contractor may not supply new product offerings until after receipt of OGS approval of the “Regular Add.” When Contract pricing is based on GSA prices, the revised prices or prices of new Products must reflect current GSA prices adjusted as necessary for any additional discounts.
- c) **SPECIAL ADD** – Contract changes and updates that do not fall within either of the above categories will be processed as “Special Adds”. Special Adds are changes that are not specifically covered by the terms of the Contract but inclusion is found to be in the best interest of the State. Contractor must provide a justification of reasonableness of the prices offered and a statement explaining why it is in the best interest of the State to approve the new Products. Special Adds are subject to pre-audit by the Office of the State Comptroller. If approved, OGS staff will notify Contractor in writing. Contractor may not supply new offerings until after receipt of OGS approval of the “Special Add.”

PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS:

The applicable Prevailing Wage Rate Schedule for this project is **PRC # 2009002546**
For access to the Department of Labor (DOL) Prevailing Wage Schedule, use the following link:

<http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showIt>

PRICE AND DISCOUNTS:

Any prompt payment terms (cash discounts) or quantity (volume) discounts which are included in the Master Contract will also be included in the New York State Contract.

The industrial funding fee normally paid to the General Services Administration for sales from the GSA Contracts shall be remitted quarterly to the Office of General Services, New York State Procurement with your "Report of Contract Purchases."

CONTRACT PERIOD AND RENEWALS:

The New York State Contract period shall be for the term as indicated on the Piggyback Agreement. Extensions or renewals to the Master Contract or any modification including new products, terms, or price changes to the Master Contract shall be submitted by the Contractor to the Office of General Services, New York State Procurement for approval and shall be effective to the New York State Contract upon the date of issuance of a written notification to New York State contract users

Upon expiration of the Master Contract, Contractor may submit any subsequent replacement contracts entered into for the same or similar products with the same Issuing Entity to the Office of General Services, New York State Procurement in order to establish a new contract.

In the event Contractor's Master Contract expires and no new contract is let by the original Issuing Entity, OGS reserves the right, upon written agreement with Contractor, to renew the New York State Contract under the same terms and conditions for an additional period of one year.

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SHORT TERM EXTENSION:

In the event the replacement contract has not been issued, any contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one month upon notice to the contractor with the same terms and conditions as the original contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the contractor, the extension may be for a period of up to three months in lieu of one month. However, this extension terminates should the replacement contract be issued in the interim.

PRICE CHANGE PROCEDURE (AFTER EXPIRATION OF MASTER CONTRACT):

Should the Master Contract expire and not be extended or renewed prior to the expiration of the New York State Contract (including any renewals processed by New York State), and providing the Master contract referenced uniform discount(s) from nationally distributed price list(s), the contract prices may be subject to increase or decrease during the remainder of the contract period in accordance with changes which may be made by the manufacturer in their established, nationally distributed price list or published catalog. Catalog or price lists may indicate increases or decreases in pricing, but the percentage discount(s) in effect at the time of Master Contract expiration shall not be decreased.

In the event the Master Contract did not reference uniform discount(s) from nationally distributed price list(s), updated price lists may be submitted for acceptance providing the discount structure used as a basis for pricing which was in effect at the time of Master Contract expiration remains unaltered. This evidence must be supplied by the Contractor along with the updated price lists.

New products will be considered for inclusion provided they are pertinent to the contract and are offered to the State at the same discount, terms and conditions as the Master Contract.

The price revisions, new lists or supplements to an original list shall be submitted to the Office of General Services, New York State Procurement, to the attention of the Purchasing Officer shown on the front of this document, in triplicate, for approval before ordering agencies will be bound to any such revisions. Approvals of price revisions shall become effective upon the date of issuance of a written notification to New York State contract users.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this contract, in whole or in part without reason provided that the Contractor is given at least sixty (60) days notice of its intent to cancel. This provision should not be understood as waiving the State's right to terminate the contract for cause or stop work immediately for unsatisfactory work, but is supplementary to that provision. Any such cancellation shall have no effect on existing Agency agreements, which are subject to the same 60 day discretionary cancellation or cancellation for cause by the respective user Agencies.

CONTRACT MIGRATION:

State Agencies or any other authorized user holding individual contracts with contractors under this centralized contract shall be able to migrate to this contract award with the same contractor, effective on the contract begin date (retroactively, if applicable). Migration by an agency or any other authorized user to the centralized contract shall not operate to diminish, alter or extinguish any right that the agency or other authorized user otherwise had under the terms and conditions of their original contract.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

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

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NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS: (Cont'd)

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 (www.ogs.ny.gov). Questions regarding an organization's eligibility to purchase from New York State contracts may also be directed to OGS New York State Procurement's Customer Services at 518-474-6717.

CATALOGS AND PRICE SHEETS:

Upon request, Contractor shall furnish, without charge, copies of Master Contract including modifications thereto and related catalogs and price lists to New York State agencies and other authorized users. Upon request, contractor shall also assist authorized users in the use of such documents. For product list and pricing information go to www.gsaadvantage.gov under "what are you looking for" and enter the master contract number of GS-07F-0108J.

GENERAL TERMS OF MASTER AGREEMENT: (additional information available upon request as stated above)

Maximum Order: \$75,000
Minimum Order: \$100.00
Quantity Discounts: Yes
Prompt Payment Terms: Net 30 Days
Time of Delivery: Normal-60 Days ARO
Expedited: 30 Days ARO
Urgent Requirements: Contract Clause I-FSS-10-B applies
Agency can contact contractor to possibly affect a faster delivery
FOB: Origin

PREFERRED SOURCE PRODUCTS:

Section 162 of the New York State Finance Law requires that New York State agencies afford first priority to the products of preferred source suppliers, such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such products meet the form, function and utility of the agency. Some products in the Master Contract and the resultant New York State Contract may be available from one or more preferred sources. Contractor understands and agrees that such products must be purchased from a preferred source in accordance with New York State Law.

PURCHASE ORDERS:

See "Purchase Orders" in Appendix B, OGS General Specifications.
If there is a discrepancy between the purchase order and what is listed on contract, it is the contractor's obligation as a condition of payment to clarify and resolve what is to be actually shipped by contacting ordering agency.

MINIMUM ORDER:

If Master Contract contains minimum order quantities or values, contractor may elect to honor orders for less than the minimum order. For such orders, at the contractor's option, shipping costs from the contractor's address (as stated in this agreement) may be added to invoice with a copy of the freight bill. Shipping costs are to be prepaid by contractor and such orders are to be shipped on an F.O.B. Origin basis. All such orders must be shipped by the most economical method for the proper delivery of the product unless special instructions are stated on the order by the agency.

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EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of commodities or services, the Commissioner reserves the right to obtain such commodities or services from any source, including but not limited to this contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for commodities or services procured from other sources pursuant to this paragraph.

DIESEL EMISSION REDUCTION ACT OF 2006 (NEW REQUIREMENT OF LAW):

On February 12, 2007 the Diesel Emissions Reduction Act took effect as law (the "Law"). Pursuant to new §19-0323 of the N.Y. Environmental Conservation Law ("NYECL") it is now a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. They need to be operated exclusively on ULSD by February 12, 2007. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

As a contract vendor the Law may be applicable to vehicles used by contract vendors "on behalf of" State agencies and public authorities. Thirty three percent (33%) of affected vehicles must have BART by December 31, 2008, sixty-six percent (66%) by December 31, 2009 and one-hundred percent (100%) by December 31, 2010. The Law provides a list of exempted vehicles. Regulations currently being drafted will provide further guidance as to the effects of the Law on contract vendors using heavy duty diesel vehicles on behalf of the State. The Law also permits waivers of ULSD and BART under limited circumstances at the discretion of the Commissioner of Environmental Conservation. The Law will also require reporting from State agencies and from contract vendors in affected contracts.

Therefore, the bidder hereby certifies and warrants that all heavy duty vehicles, as defined in NYECL §19-0323, to be used under this contract, will comply with the specifications and provisions of NYECL §19-0323, and any regulations promulgated pursuant thereto, which requires the use of BART and ULSD, unless specifically waived by NYSDEC. Qualification and application for a waiver under this Law will be the responsibility of the bidder.

REPORT OF CONTRACT PURCHASES:

Contractor shall furnish quarterly reports containing total sales for both state agency and authorized non-state agency contract purchases no later than forty-five (45) days after the close of each calendar quarter.

In addition to contractor direct sales, contractor shall submit sales information for all resellers, dealers, distributors or other authorized distribution channels, where such contract sales are provided by other than the contractor. Contractors shall verify if each alternate vendor is a NYS Certified Minority (MBE) or Women (WBE) Owned Businesses. Contractors shall verify such status through the Empire State Development Minority and Women Owned Businesses Database web site at: <http://www.nylovesmwbe.ny.gov/cf/search.cfm>.

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REPORT OF CONTRACT PURCHASES: (Cont'd)

A separate report shall be provided in the following format for each authorized distribution channel. The sales report form is forwarded to each contractor at time of award for completion in accordance with the contract terms and conditions:

The sales report form is forwarded to each contractor at time of award for completion in accordance with the contract terms and conditions.

	Brief Description	Total Value Purchased (\$)
All Political Subdivisions/Authorized Users		
All State Agencies		
TOTAL SALES		\$

The report is to be submitted electronically in Microsoft Excel 2003 or lower format to the Office of General Services, New York State Procurement, Tower Bldg., Empire State Plaza, Albany, NY 12242, to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, the Award Number, Contract Number, sales period, and contractor's (or other authorized agent) name.

The outlined sales report is the minimum information required. Additional related sales information, such as monthly reports, and/or detailed user purchases may be required and must be supplied upon request.

OVERLAPPING CONTRACT ITEMS:

Products available in the resulting contract may also be available from other New York State contracts. Contract 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.

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**State of New York
Office of General Services
NEW YORK STATE PROCUREMENT
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

_____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by FAX to 518/474-2437 or mail to:

OGS NEW YORK STATE PROCUREMENT
Customer Services, 37th Floor
Corning 2nd Tower - Empire State Plaza
Albany, New York 12242
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