

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

CONTRACT AWARD NOTIFICATION

Title	:	Group 05602 – ULTRA LOW-SULFUR DIESEL ENGINE FUEL (Generator Application) (Specific Counties)
		Classification Code(s): 15
Award Number	:	<u>19764</u> (Replaces Award 18359)
Contract Period	:	August 13, 2005 to August 17, 2007
Bid Opening Date	:	April 07, 2005
Date of Issue	:	July 1, 2005
Specification Reference	:	As Incorporated In The Invitation for Bids
Contractor Information	:	Appears on Page 2 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : Russell B. Patton, Jr. Title : Purchasing Officer I Phone : 518-474-9621 Fax : 518-474-1160 E-mail : russell.patton@ogs.state.ny.us	Customer Services Phone : 518-474-6717 Fax : 518-474-2437 E-mail : customer.services@ogs.state.ny.us

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

Description

Ultra-Low Sulfur Diesel Engine Fuel for use in agency emergency generators (only those locations listed).

PR # 19764

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT.#</u>
PC61810	SPRAGUE ENERGY CORP. 4 NEW KING STREET WHITE PLAINS, NY 10604	914/328-6726 Burr J. Mosher III FAX NO.: 914/328-6721 Web Site: www.spragueenergy.com	020415440

NOTE: Sprague Energy will honor orders for less than required minimum order.

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

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 Procurement Services Group 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

NOTE TO AUTHORIZED USERS:

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

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

(continued)

NOTE TO AUTHORIZED USERS: (Cont'd)

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).

PRICE:

Price shall be net, per gallon, F.O.B. agency storage tanks including all customs duties and charges and as designated by the ordering agency.

If the contractor extends such allowances during the term of the contract to Federal, State, Local Governments or to commercial users in the normal course of doing business. New York State requires that such allowances will also be available to the State in the maximum amount extended to others who contract to purchase diesel fuel under similar contractual terms and conditions.

Contract prices shall be firm except that price revisions shall be permitted in accordance with the PRICE REVISION CLAUSE set forth in this Group Specification and with respect to certain taxes and duties as follows:

"After-imposed tax" means any new or increased Federal, State and local excise tax or duty, except social security or other employment taxes, on diesel fuel purchased under any contract to be awarded hereunder which the contractor is required to pay or bear the burden of as the result of legislative, judicial or administrative action taking effect after the date of contract award.

"After-relieved tax" means any amount of Federal, State and local excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on diesel fuel purchased under any contract to be awarded hereunder which the contractor is not required to pay or bear the burden of, or for which the contractor obtains a refund or drawback, as the result of legislative, judicial or administrative action taking effect after the date of contract award.

The contract price includes all applicable Federal, State and local taxes and duties. NOTE the State of New York and its political subdivisions are exempt from New York State and local sales taxes and federal excise taxes.

The price for diesel fuel under any contract awarded hereunder shall be increased by the amount of any after-imposed tax, unless the legislative, judicial or administrative act says otherwise, if the contractor states in writing that such contract price does not include any contingency for such after-imposed tax. Such increase shall be prospective only and becomes effective upon such written notice and on the effective date of the next scheduled price revision.

The price for diesel fuel under any contract awarded hereunder shall be decreased by the amount of any after-relieved tax. Such decrease shall be effective when realized or by no later than the next scheduled price revision.

The contract price shall also be decreased by the amount of any excise tax or duty, except social security or other employment taxes, that the contractor is required to pay or bear the burden of, or does not obtain a refund for, through the contractor's fault or negligence.

The contractor shall promptly notify the Purchasing Officer of all matters relating to any excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price for diesel fuel.

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PRICE REVISIONS:

Contract prices shall be firm except that price revisions will be permitted in accordance with the following procedure:

Separate revisions to the original contract price shall be based on prices in the JOC Group Oil Price Daily for Kerosene, under the heading, “Daily Petroleum Prices”, Albany Reseller only, which is designated for low sulfur products.

1D Price will fluctuate according to the “Kerosene” posting selected.

The simple average of the high and low prices shown in the JOC Group Oil Price Daily postings will be used to compute price revisions during the contract period. Procurement Services Group will compute any price revisions by determining the difference between the Posted Price on February 24, 2005 and the Posted Price on every Thursday during the contract period beginning with the JOC Group Oil Price Daily Thursday issue covering the applicable week for the date of issuance. The aforementioned mechanism for weekly price revisions would then be applied to the contract prices throughout the contract period. Price revisions will be rounded at four (4) decimal places for all price adjustments throughout the contract period. Applicable price changes will be effective as of the start of business on the following Friday. If the prices are not posted on Thursday, the previous business day on which the specified prices are posted will be utilized.

The average published price on February 24, 2005 for 1D is \$1.7340.

The terms “Posting Day” or “Posted Price” as used throughout this AWARD and specification, refers to the actual day the prices are posted.

Should the weekly price revision cycle not provide adequate price adjustments, because of rapid changes in worldwide petroleum prices, the State reserves the right to increase the frequency of the price revisions to a daily basis. The daily basis will utilize postings Monday through Friday with applicable price changes to be effective as of the start of business on the following day. Weekend prices will be based on Friday's posting. The Friday posting will also stay in effect on Monday holidays. Prices in effect for mid week or Friday holidays will be the same as for the preceding day. Also, refer to “NOTE” concerning “Posting Day” below.

NOTE: In the event postings are not posted on a specified “Posting Day”, the “Posting Day” for that week will be the day previous when postings are available. If on any “Posting Day” only a single price is posted, negating the averaging process, the State normally uses the single posting as both the high and low prices, however, the State reserves the right to utilize the last posting immediately preceding said JOC Group Oil Price Daily in which the missing price was posted until such time as both entries are again posted. Should postings differ from current description and/or format, a posting determined, by the Commissioner in his sole discretion; to be most reflective of market conditions will be used.

Corrections to posted prices previously posted in the JOC Group Oil Price Daily will be considered only when caused by a typographical or clerical error on the part of said service provider.

The following clauses shall apply to all price adjustments under any contract awarded:

(1) Price increases are limited to changes in pre-selected postings as noted above. Increases in contract costs or prices to compensate for other increases in the cost of doing business, regardless of the cause or nature of such costs of the contractor, will not be allowed during the contract period.

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

(3) Price adjustments will continue using the same method if contract is extended.

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NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

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

Upon request, all eligible non-State agencies must furnish 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.state.ny.us). Click on "For Government-Contracts and Purchasing," then "About Procurement," then "Non-State Agency Legal References." Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS Procurement Services Group's Customer Services at 518-474-6717.

EXTENSION OF USE:

Any contract resulting from this bid solicitation may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead contracting State) and the contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

<u>Item No./ Diesel Fuel by County</u>	<u>Quantity Based on Filed Requirements Gallons</u>	<u>Item No.</u>	<u>Price Per Gal. ULSD*</u>	<u>Tank Size gal.</u>
<u>DUTCHESS</u>				
1-Hudson River Psy. Ctr.	600	1	\$2.0176	2,000
<u>KINGS</u>				
2-Kingsboro Psy. Ctr.	3,600	2	\$1.9206	2,500/3,000
<u>NEW YORK</u>				
3-New York P.I.	2,800	3	\$1.9206	10,000
<u>ORANGE</u>				
4-Mid-Hudson Forensic Psy. Ctr..	2,000	4	\$1.8981	15,000
<u>RICHMOND</u>				
5-South Beach Psy. Ctr.	2,500	5	\$1.9556	3,300
<u>WESTCHESTER</u>				
6-Westchester Co. Locations	88,000	6	\$1.9956	See Attached Delivery Locations

*Ultra-Low Sulfur Diesel Emergency Delivery Contact: Customer Services (914) 328-6710

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WESTCHESTER COUNTY
DELIVERY LOCATIONS

	<u>LOCATION</u>	<u>ADDRESS</u>	<u>GALLONS/YR.</u>	<u>TANK SIZE</u>
1.	Westchester Co. Courthouse	111 Dr. Martin Luther King Dr. White Plains, NY 10601	445	2,000
2.	Westchester Co. Office Bldg.	148 Maritime Ave. White Plains, NY 10601	280	3,000
3.	Playland Park	Rye, NY 10850	775	(4) 175, (1) 275
4.	Westchester Co. District Office	100 East 1st Street Mt. Vernon, NY 10550	1,000	500
5.	Fire Training Center	4 Dana Rd. Valhalla, NY 10595	300	1,000
6.	County Police	1 Saw Mill River Pkwy. (Rt. 9A) Hawthorne, NY	100	1,000
7.	Briarcliff Pump Station	Route 9 Briarcliff, NY	500	1,000
8.	Schrub Oak Pump Station	Mill Street Yorktown, NY	2,000	2,000
9.	Croton Pump Station	Municipal Place Croton-on-Hudson, NY	1,000	1,000
10.	Irvington Pump Station	So. Buckout Street Irvington, NY	1,000	2,000
11.	Tarrytown Pump Station	White Street Tarrytown, NY 10591	1,000	1,000
12.	Flint Avenue Pump Station	Flint Ave. & Quarry Rd. Larchmont, NY	275	275
13.	Crotonville Pump Station	Old Albany Post Rd. Ossining, NY 10562	1,000	2,000
14.	Water Street Pump Station	North Water Street Peekskill, NY	500	1,000
15.	Croton Landfill Garage	Croton Point Park Croton-on-Hudson, NY	275	275
16.	Sprain Pump Station	Jackson Avenue Yonkers, NY	500	275
17.	Fifth Avenue Pump Station	Fifth Avenue New Rochelle, NY 10801	175	175

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WESTCHESTER COUNTY
DELIVERY LOCATIONS
(Cont'd)

	<u>LOCATION</u>	<u>ADDRESS</u>	<u>GALLONS/YR.</u>	<u>TANK SIZE</u>
18.	Kemeys Avenue Pump Station	Kemeys Avenue Ossining, NY	275	275
19.	Hutchinson Pump Station	Garden Avenue Extension Mt. Vernon, NY	1,100	1,100
20.	Ossining Wastewater Treatment Plant	75 Westerly Road Ossining, NY 10562	1,500	(2) 275, (1) 1,000
21.	North Yonkers Pump Station	19 Alexander Street Yonkers, NY 10701	24,000	(2) 8,000
22.	Yonkers Joint Wastewater Treatment Plant	Ludlow Dech, South Yonkers, NY 10701	50,000	(5) 6,000, (1) 2,500, (1) 160

REQUEST FOR CHANGE:

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

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.

PSG's DISPUTE RESOLUTION POLICY:

It is the policy of the Office of General Services' Procurement Services Group (PSG) to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to PSG bid solicitations or contract awards. PSG encourages vendors to seek resolution of disputes through consultation with PSG staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of PSG's Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown on the front of this document or through the OGS website (www.ogs.state.ny.us). Click on "For Government - Contracts and Purchasing," then "Seller Information," then "Dispute Resolution Procedures for Vendors."

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GUARANTEE:

The contractor guarantees to furnish adequate protection from damage to agency's buildings, grounds and/or equipment occurring on account of, or in connection with, or occasioned by, or resulting from the furnishing and delivering of diesel engine fuel under this contract and shall be liable for any damages for which he or his employees are responsible.

This liability includes but is not limited to oil spills occurring during delivery. The contractor shall provide constant surveillance during delivery by having a person in attendance at all times at the point of transfer. Oil spills shall be immediately reported to the agency Business Office to effect contact with a representative of the Oil Spill Bureau.

Twenty-four hours a day, a call can be placed with the New York State Oil Spill Hotline at 1-800-457-7362.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order and shall be to any State agency (whether listed or non-listed) in a stipulated county.

Product is required as soon as possible and guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each agency. If there is a discrepancy between the purchase order and what is listed on the contract, it is the contractor's obligation to seek clarification from the ordering agency and, if applicable, from the Office of General Services, Procurement Services Group.

MINIMUM DELIVERY:

Shall be not less than 150 gallons to each tank at each delivery location (site) as determined by the delivery schedule.

Purchases of less than minimums qualify for contract pricing at vendor's discretion, including tank top-offs for tank testing. However, in no case shall pricing exceed contractor's normal retail pricing for purchase of less than 150 gallons, regardless of delivery circumstances.

FILL AND VENT REQUIREMENTS:

Agencies must ensure that fill and vent equipment adequately meet NYS Standards. Contractors have the responsibility of reporting faulty equipment to the end users and the appropriate NYS regulatory agencies.

NOTE:

Delivery trucks WILL BE EQUIPPED WITH METERS, with the exception of motor transports, to accurately measure quantities delivered. Metered deliveries must be accompanied by a delivery ticket showing brand or grade and number of gallons delivered.

Supplementing Articles 45 and 46 of Appendix B, General Specifications for Procurement Contracts, orders will call for delivery within a specified number of days after date of order. As much time as possible will be allowed the contractor for making deliveries; however, the contractor shall be in a position to make bulk deliveries within 24 hours after receipt of order.

Contractor must be prepared, at all times, to make prompt delivery as ordered. In emergencies, fuel must be delivered within twenty-four (24) hours of notification. Contractors must be prepared to deliver in a timely manner, on a one time basis per Agency tank, that amount of fuel oil necessary to fill subject tanks for the purpose of tank testing conducted by the Office of General Services at various locations providing minimum order requirements are met. (See "MINIMUM DELIVERY" clause).

Normal deliveries are considered to be Monday thru Friday. Saturday/Sunday deliveries are to be made on an emergency basis (and not a regular basis) ONLY.

Agencies are responsible for making certain that the delivery site is made ready for proper delivery by the contractor. Failure of the agency to make appropriate arrangements preventing delivery of product upon contractor's arrival at delivery site, may result in a charge to the agency for the contractor's transportation costs for that particular trip. Agencies should also make certain that receiving personnel are available at time of delivery.

(continued)

NOTE: (Cont'd)

Agencies should also refer to CL-543 dated March 17, 2003 as they are responsible for the implementation of monitoring programs to insure compliance by supplier with these specification requirements.

TOPPING OFF TANKS:

Agency requests to top-off tanks for testing purposes must be honored as described elsewhere herein. The requesting agency may be required to sign a waiver of liability and responsibility on behalf of the contractor.

ESTIMATED QUANTITIES:

The quantities or dollar values listed are estimated only. See "Estimated/Specific Quantity Contracts" in Appendix B, OGS General Specifications.

CONTRACT PERIOD AND RENEWALS:

It is the intention of the State to enter into a contract for the term as stated on the Request for Quotation except that the commencement and termination dates appearing on the Request for Quotation may be adjusted forward unilaterally by the State for any resulting contract for up to two calendar months, by indicating such change on the Contract Award Notification.

The contract dates may be adjusted forward beyond two months only with the approval of the successful bidder. If, however, the bidder is not willing to accept an adjustment of the contract dates beyond the two month period, the State reserves the right to proceed with an award to another bidder.

If mutually agreed between the Procurement Services Group and the contractor, the contract may be renewed under the same terms and conditions for additional period(s) not to exceed a total contract term of five (5) years.

SHORT TERM EXTENSION:

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

WARRANTIES:

See "Warranties" in Appendix B, OGS General Specifications.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a contract product(s) totaling more than \$50,000.00.

AUTOMATIC REPLENISHMENT:

After having a written request from the purchaser for "automatic replenishment" the contractor will comply at its option and shall notify agency accordingly.

SAMPLING OF DIESEL FUEL OIL:

Fuel oil delivered shall be subject to sampling and testing at the discretion of the purchasing Agency and/or the OGS Procurement Services Group.

Normally, all samples collected for testing should be taken from delivery truck at the time of delivery.

The samples shall be collected in accordance with ASTM D4057(95)2000 [API MPMS (Chapter 8.1)], or latest revision thereof. The usual method of sampling is a three-way bottle/container sampling taken at an upper, a middle, & a lower sample point from the delivery vehicle. The sample container is a normally closed stopper type and operator opens it at each point to obtain a proportional amount of the sample.

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SAMPLING OF DIESEL FUEL OIL: (Cont'd)

Product samples taken at the Agency's dispensing pump shall be considered representative of a disputed fuel oil delivery, when the contractor has delivered one or more consecutive loads of fuel oil to the tank's content which is in dispute.

Additionally, when the purchasing Agency's documentation indicates that previously delivered fuel oil is less than five percent of the tank's fuel oil volume following any disputed delivery, and the previously delivered fuel oil performed and/or tested satisfactorily, then a sample taken from the pump shall be considered representative of the fuel oil delivered.

REPORT OF CONTRACT PURCHASES:

Contractor shall furnish report of purchases made from contract the fifteenth of the month following the end of each six month period. The reports shall be in the following format:

<u>Item/ SubItem Number</u>	<u>Product or Catalog Number</u>	<u>Product/ Service Description</u>	<u>Total Quantity Shipped</u>	<u>Total \$ Value</u>
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The report is to be submitted to the Office of General Services, Procurement Services Group, 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 Invitation for Bids Number, Contract Number, sales period, and contractor's name.

Additional related sales information, such as monthly reports, and/or detailed user purchases may be required and must be supplied upon request.

Failure to submit the required report may be cause for disqualification of contractor for future contracts.

SAMPLES TO BE SUBMITTED BY BIDDER/CONTRACTOR:

The bidder/contractor may be required to submit samples. See "Samples" in Appendix B, OGS General Specifications.

SERVICES:

Contractor must be prepared at all times to furnish engineering service when so requested and to investigate and report to the using agency and this Division on any complaint that might arise in connection with the use of contractor's diesel fuel in State equipment. This engineering service will include, but not be limited to, the diagnosis of fuel related engine problems in the agency's equipment.

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 products or services, the Commissioner reserves the right to obtain such products 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 products or services procured from other sources pursuant to this paragraph.

NEW YORK STATE PROCUREMENT CARD:

See "Procurement Card" in Appendix B, OGS General Specifications. All bidders shall indicate if they will accept the NYS Purchasing Card for orders not to exceed \$10,000 (see Questions at end of bid document).

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NON-COMPLYING PRODUCT - DELIVERY:

Deliveries of fuel oil may be sampled at the contractor's loading point or at the point of delivery by a representative of the Office of General Services, Procurement Services Group and/or the purchasing Agency's personnel. The methods of sampling and testing will be as listed elsewhere herein.

When it is found that fuel oil delivered does not comply with the specification requirements, the contractor, at its own cost and expense, may be required to remove all such sub-standard fuel oil from the purchaser's tank(s) and replace it with fuel oil meeting the specifications, if such removal is so instructed by the Office of General Services, Procurement Services Group within a maximum time period of twenty-four (24 hrs) hours.

When an inspection of the tank(s) after the removal of the sub-standard product indicates that the delivered product has rendered the tank(s) unsuitable for use, then the contractor may be responsible for cleaning of the tank(s) so affected, if such cleaning is so instructed by the Office of General Services, Procurement Services Group.

The State may cancel the contract and may purchase the balance of the contract quantities in the open market at the contractor's expense, if, in the opinion of the Commissioner of General Services, the fuel delivered fails to meet the specific requirements; or, if the fuel is found to contain objectionable dirt, or excess sediment; and/or an excessively high cold filter plugging point.

NON-COMPLYING PRODUCT - DELIVERY-OPERABILITY/PRICE-DEDUCTIONS:

Deductions shown hereafter will be made from the invoice price, or subsequent agency invoices, for delivering fuel oil that does not comply with the detailed specifications, whether or not the fuel oil in question has been consumed by the purchasing Agency. These deductions shall be a flat rate per fill incident, adjusted for the number of non-complying delivery incidents at an individual tank.

Equipment shall be operable (regardless of weather conditions) when fueled from a delivery made within the last (preceding) thirty days. A deduction shall be assessed for each tank fill incidence which causes inoperability of equipment using that delivered fuel. This inoperability deduction shall be in addition to the "PRICE DEDUCTION" assessed for not complying to one (or more) of the NON-COMPLYING PRODUCT characteristics stated hereinafter.

NON-COMPLYING PRODUCT - FLASH POINT - PRICE DEDUCTION:

When the delivered fuel oil's flash point is found to be greater than four (4°F) degrees Fahrenheit lower than the specified requirement, a deduction from the contracted invoice price shall be taken as stated in the "PRICE DEDUCTION TABLE" found elsewhere within this solicitation's documents.

NON-COMPLYING PRODUCT - WATER & SEDIMENT CONTENT - PRICE DEDUCTION:

When the delivered fuel oil's water and sediment content is found to be greater than five hundredths (0.05%) of a percent above the specified requirement, a deduction from the contracted invoiced price shall be taken as stated in the "PRICE DEDUCTION TABLE" found elsewhere within this solicitation's documents.

NON-COMPLYING PRODUCT - VISCOSITY - PRICE DEDUCTION:

When the delivered fuel oil's viscosity is found to be greater than two (2) seconds above the specified maximum requirement, a deduction from the contracted invoiced price shall be taken as stated in the "PRICE DEDUCTION TABLE" found elsewhere within this solicitation's documents.

NON-COMPLYING PRODUCT - SULFUR CONTENT - PRICE DEDUCTION:

When the delivered fuel oil's sulfur content is found to be greater than 0.0035% a deduction from the contracted invoiced price shall be taken as stated in the "PRICE DEDUCTION TABLE" found elsewhere within this solicitation's documents.

If any delivered product is found to contain incorrect dye, then all fuel in the tank shall be removed and replaced with an equal quantity of (clear or red dyed, tax exempt) complying product.

The deduction shall be assessed regardless of whether the non-complying fuel oil delivery is removed or not removed.

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NON-COMPLYING PRODUCT - CETANE INDEX - PRICE DEDUCTION:

When the delivered fuel oil’s cetane index is found to be below the specified minimum requirement/s (i.e., 40), a deduction from the contracted invoiced price shall be taken as stated in the “PRICE DEDUCTION TABLE” found elsewhere within this solicitation's documents.

The deduction shall be applied to Calculated Cetane Index deficiencies and/or Engine Cetane Index deficiencies. The State may consider waiving these deductions (or adjusting them) if certified documentation of fuel quality is provided for fuel containing adequate additives. The State reserves the right to require engine Cetane testing at the contractor’s expense when calculated Cetane is lower than the specified Cetane Index.

NON-COMPLYING - ASH CONTENT - PRICE DEDUCTION:

When the delivered fuel oil’s ash content is greater than fifteen thousandths of a percent (0.015%), a deduction from the contracted invoiced price shall be taken as stated in the “PRICE DEDUCTION TABLE” found elsewhere within this solicitations document.

<u>NON-COMPLYING PRODUCT & OPERABILITY TABLE FOR PRICE DEDUCTIONS:</u>				
Description of Non-Complying Characteristic	Limiting Value	Respective Amount of Deduction	Equipment Operability	Respective Amount of Deduction
<u>FLASH POINT</u> Type: 1D	LESS THAN 96°F	1st incident charged at \$100.00 per tank fill*;	WHENEVER USE OF DELIVERED	1st incident charged at \$100.00 per tank fill*;
<u>WATER AND SEDIMENT</u>	greater than 0.10%	2nd incident charged at \$250.00 per tank fill*;	DIESEL FUEL CAUSES EQUIPMENT ENGINE/S	2nd incident charged at \$250.00 per tank fill*;
<u>VISCOSITY</u> (max) SUS at 100°F: Type: #1D:	greater than 40 S			
<u>SULFUR CONTENT</u> (0.003%, Max)	greater than 0.0035%			
<u>CETANE INDEX NO.</u> Calculated: :	less than 40 CCI			
<u>ASH</u> , % mass 0.01% (max):	greater than 0.015%			
		Three or more incidences, charged at \$500.00 per tank fill*.	TO NOT OPERATE (SHUTDOWN), DEDUCT THE FOLLOWING:	Three or more incidences, charged at \$500.00 per tank fill*.

* “Tank fill”, as used in this Table, shall be an individual (drop) fuel delivery into a purchasing facility’s fuel storage tank by the contractor’s authorized delivery vehicle.

(continued)

DETAILED SPECIFICATIONS

FOR ULTRA LOW SULFUR DIESEL FUEL

Address inquiries relative to Detailed Specifications to Procurement Services Group, Telephone Number 518-474-9621, Attn: Russell Patton.

SCOPE:

This specification shall describe Ultra Low Sulfur Diesel Engine Fuel Oil for use at various State agencies throughout New York State for emergency generator use only. The product shall be contractor furnished, delivered and unloaded as specified under “PRICE” section in the Specification General Information clauses.

ACRONYMS AND DEFINITIONS:

ASTM:

The acronym, “ASTM” shall be used as a designation for the American Society for Testing and Materials.

CFPP:

The acronym, “CFPP” shall be used as a designation for the Cold Filter Plugging Point of the fuel.

IP:

The acronym, “IP” shall be used as a designation for the Institute of Petroleum.

1D (1-D)

The symbols 1D and/or 1-D shall be used as a grade designation for light distillate diesel fuel oils used in vehicular diesel engines and in higher volatility applications than provided by grade 2-D fuel oils.

UNIVERSAL DETAILS

All products provided shall be homogenous fuel oil, suitable for diesel engines, and they shall conform to the requirements of ASTM D975-04c, Table 1, or latest revision thereof, except as listed differently elsewhere herein.

NOTE: All test references shall be ASTM method, as indicated herein, or approved equivalents.

FLASH POINT:

The specified minimum Flash Point for Fuel Oils provided under this contract shall be: 100°F for 1D. Delivered product having a flash point below the respective requirement given above, shall be adjusted in price as stated elsewhere herein for **NON-COMPLYING PRODUCT**.

Delivered product having a flash point greater than ten (10°F) degrees Fahrenheit below the specified minimum shall be removed from the purchasing agency’s tank and replaced with product conforming to specifications. The Flash Point shall be determined using ASTM Test Method D93-02a (IP #34/85), or latest revision thereof, Flash Point by Pensky-Martens Closed Tester.

WATER AND SEDIMENT:

The intended Water & Sediment (W & S) content for Fuel Oils provided under this contract shall be five hundredths (0.05% V/V) of a percent.

Delivered product having a water & sediment content greater than ten hundredths (0.10% V/V) of a percent shall be adjusted in price as stated elsewhere herein for **NON-COMPLYING PRODUCT**.

Delivered product having a water & sediment greater than ten hundredths (0.10% V/V) of a percent shall be removed from the purchasing agency’s tank and replaced with product conforming to specifications, at purchasing agency’s discretion based on excessive filter maintenance and/or poor vehicle performance. The Water & Sediment content shall be determined using - ASTM Test Method D1796-97 (2002) [r90] (IP #75/82), or latest revision thereof.

(continued)

DETAILED SPECIFICATIONS (Cont'd)

UNIVERSAL DETAILS: (Cont'd)

VISCOSITY:

The specified maximum Viscosity for Fuel Oils provided under this contract shall be: thirty eight (38 SUS @ 100°F) Saybolt Universal Seconds at one hundred degrees Fahrenheit, maximum, for 1-D fuel oil. Delivered product having a viscosity greater than 40 SUS @ 100°F shall be adjusted in price as stated elsewhere herein for NON-COMPLYING PRODUCT.

Delivered product having a viscosity greater than 42 SUS @ 100°F shall be removed from the purchasing agency's tank and replaced with product conforming to specifications, at purchasing agency's discretion based on excessive filter maintenance and/or poor vehicle performance. The Viscosity shall be determined using ASTM Test Method D445-04 e1 (IP #71/84), or latest revision thereof; and ASTM D2161-93 (1999 e2), conversion of Kinematic Viscosity to Saybolt Universal Seconds (Table 1), or latest revision thereof relative to the individual characteristics of the product being tested.

CLOUD POINT:

The maximum cloud point temperature shall be equal to the tenth percentile minimum ambient temperature listed elsewhere herein under the heading LOW TEMPERATURE OPERABILITY PERFORMANCE. The maximum cloud point temperature for product, delivered from APRIL through the Summer use period, shall be -10°F [minus twenty-three (-23°C) of a degree Centigrade]. The Cloud Point shall be determined using ASTM Test Method D2500-02 e1 (IP #219/82), or latest revision thereof; or ASTM D3117-03, alternate method in accordance with ASTM D975-01 procedures.

SULFUR:

The specified maximum Sulfur content for Fuel Oils provided under this contract shall be three thousandths of a percent, per table which follows. Delivered product having a sulfur content greater than thirty five thousandths of a percent (0.0035%) shall be adjusted in price as stated elsewhere herein for NON-COMPLYING PRODUCT. Delivered product having a sulfur content greater than that allowed by NYCRR, Title 6 Environmental Conservation Law, Chapter III Air Resources, Subchapter A, Subpart 225-1.2.(d) Table 2 shall be removed from the purchasing agency's tank and replaced with product conforming to specifications. The Sulfur content shall be determined using ASTM D2622-03, or ASTM D4294-03; or latest revisions thereof relative to the individual characteristics of the product being tested.

SUMMARY OF SULFUR CONTENT (REQUIREMENTS)

<u>Geographical Area of the State</u>	<u>Percent of Sulfur by Weight (Maximum)</u>
Statewide Highway Vehicles:	0.003% (three-thousandths of a percent)

CETANE RATING:

The specified minimum cetane value for Fuel Oils provided under this contract shall be a forty (40.0 CCI) Calculated Cetane Index. Delivered product having a calculated cetane index below forty (40.0) CCI shall be adjusted in price as stated elsewhere herein for NON-COMPLYING PRODUCT.

Delivered product having a calculated cetane index below thirty-eight (38) CCI shall be removed from the purchasing agency's tank and replaced with product conforming to specifications. The Calculated Cetane Index value shall be determined using ASTM Test Method D976-04a (IP #364/84), or latest revision thereof; or ASTM D4737-03 (2001), or latest revision thereof; relative to the individual characteristics of the product being tested.

When a given sample is determined to be in non-compliance of either or both (Calculated & Engine) Cetane Index requirements, then the greater deviation shall be the figure used for the price deduction requirements; except when the Engine Cetane Index exceeds its specified requirement, the "Non-Complying Product - Cetane Content/Price Deduction" shall be waived.

(continued)

DETAILED SPECIFICATIONS (Cont'd)

UNIVERSAL DETAILS: (Cont'd)

ASH:

The specified maximum ASH content for Fuel Oils provided under this contract shall be one hundredth (0.01%) of a percent, maximum by weight. Additionally, a product having excessive ash content shall be removed and/or adjusted in price as specified elsewhere herein. The Ash content shall be determined using ASTM Test Method D482-03 (IP #4/81), or latest revisions thereof - relative to the individual characteristics of the product being tested.

Delivered product having an ash content above the maximum by greater than five thousandths (0.005%) of a percent above the maximum but less than one tenth (0.10%) of a percent above the maximum shall be adjusted in price as stated elsewhere herein for NON-COMPLYING PRODUCT. Delivered product having an ash content of one tenth (0.10%) of a percent by wgt., or greater, above the maximum specified shall be removed from the site upon the State's request and the contractor shall pay a price penalty as stated elsewhere herein regardless of whether the fuel oil delivery is removed or not removed. Respective ash contents shall be listed elsewhere herein.

CETANE IMPROVER:

At the manufacturer's recommended full strength dosage ratio, this additive shall include a 2-ethyl-hexyl-nitrate cetane improver which shall increase the cetane value of the fuel by a minimum of four (4) numbers (i.e., a 42.0 cetane fuel shall rise to a cetane of 46.0, or better). A minimum of thirty (30%) percent of the additive package shall be cetane improver.

DETERGENT:

This additive shall possess detergent characteristics. It shall meet the parameters of CRC L-10 Superior Maximum Demerit Rating requirements (10 max.) and it shall pass a verifiable, objective dynamometer test which proves keep-clean or clean-up ability relative to untreated fuel oil. The Mercedes Benz OM-616 Coker Test, or comparable test, shall be acceptable for proof of performance.

CORROSION INHIBITORS:

At the manufacturer's recommended full strength dosage ratio, this additive shall possess corrosion inhibitors which shall ensure a B⁺⁺, or better, NACE rating (steel spindle test).

WATER DISPERSAL:

This additive shall provide water dispersant characteristics which neither: completely shed water, nor completely emulsify the water. It shall emulsify water in the fuel oil being treated at a controlled rate of one hundred (100 gal) gallons, maximum, per million gallons of fuel being treated.

DEICING CAPABILITY:

At the manufacturer's recommended full strength dosage ratio, this additive shall provide adequate deicing capability.

ADDITIVE REFERENCE: (WINTER MIX, CFPP IMPROVER)

Any additive supplied under this contract shall be: AGA/Truck-Pro (Carter Chem.) product named "Artic Arnol", or NALCO Chemical Co. product code number "88BK108 Liquid", or comparable product; meeting the minimum requirements of this specification.

DIESEL FUEL OIL REQUIREMENTS:

The fuel oil supplied under this contract shall meet the universal details listed previously, the seasonal and other listed requirements which follow:

The fuel oil supplied shall be visually free of undissolved water, sediment, suspended matter, and shall be clear & bright at the ambient temperature, or seventy (70°F) degrees Fahrenheit, whichever is higher. Fuel oil supplied shall NOT contain any alcohol.

(continued)

DETAILED SPECIFICATIONS (Cont'd)

UNIVERSAL DETAILS: (Cont'd)

GRADE 1D (1-D), DIESEL FUEL OIL:

The Grade 1D fuel oil shall meet the specifications listed previously herein and it shall be suitable for use during winter (sub zero) climate conditions. Kerosene (1- K) meeting and/or exceeding the parameters stated herein for 1D will be considered in lieu of 1D as part of this specification/solicitation.

REQUIREMENTS SUMMARY

<u>PARAMETER</u>	<u>TEST METHOD</u>	<u>1D FUEL OIL</u>
Flash Point, min.:	D93-02a	100°F
Water & Sed., max.:	D1796-97 (2002)	0.05% V/V
Water & Sed., Haze Rating, max.:	D4176-04	2.0
*Viscosity, max.:	D445-04 e1/D2161-93 (1999) e2	38 SUS@100°F
Ash, % mass, Max.	D482-03	0.01
Sulfur, % mass, max.:	D2622-03 or D4294-03	0.003%
Cetane Index (Calculated)	D4737-03	40.0 (min.)
Cetane Number (Engine)	D613-03b	42.0 (min.)
Aromaticity, % vol, (possible min.): (max.):	D1319-03	---- 35.0
Cloud Point, °C max.	D2500-02 e1	-10°F
Carbon Residue (mass %), max, on 10% Ramsbottom:	D524-04	0.15
Corrosion Inhibitors	TM0172, NACE	mfr's std.
Stabilizer	F2161, Dupont	mfr's std.
Lubricity (Applied Load)	D-6078-04	3100 (grams)
Lubricity (WSD@60c)	D6079-04	0-45 (max.)

*NOTE: The minimum Kinematic viscosity shall be 1.4 cSt.

(continued)

**State of New York
Office of General Services
PROCUREMENT SERVICES GROUP
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 PROCUREMENT SERVICES GROUP
 Customer Services, Room 3711
 Corning 2nd Tower - Empire State Plaza
 Albany, New York 12242
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