

New York State Office Of General Services
New York State Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
<http://www.ogs.state.ny.us>

PURCHASING MEMORANDUM

CENTRALIZED CONTRACTS FOR THE ACQUISITION OF PRINTING AND IMAGING EQUIPMENT

BID NUMBER: 22661

DATE: October 7, 2013

GROUP: 75525 – Printing and Imaging Equipment

PLEASE ADDRESS INQUIRIES TO:

Jamie Nusbaum
SST_off_equip@ogs.ny.gov

Christopher Martinez
SST_off_equip@ogs.ny.gov

Sharon Buck
SST_off_equip@ogs.ny.gov

BID OPENING: November 5, 2013, 11:00 AM ET

**SUBJECT: CENTRALIZED CONTRACTS FOR THE ACQUISITION OF PRINTING AND IMAGING
EQUIPMENT**

1. TO PROSPECTIVE BIDDERS

The New York State Office of General Services (OGS), New York State Procurement (NYSPro) is establishing new centralized Contracts for the acquisition (purchase) of Printing and Imaging Equipment and related Options, Consumables, Replaceable Service Parts, Software, and services (including, but not limited to, Installation, Networking, Extended Warranties, Maintenance and other related professional services); including for End-of-Life (EOL) Equipment. A Contractor shall offer NYS Authorized Users Printing and Imaging Equipment in at least one of the four Lots listed below from its nationally published pricelist. Products and services offered will be purchased on an as needed basis by Authorized Users from the Contractor's approved NYS Contract pricelist.

This is a periodic recruitment Contract open to Original Equipment Manufacturers (OEMs) in continuous operation for at least the past three (3) years offering Printing and Imaging Equipment. The term of these Contracts shall be three (3) years commencing on the date of OGS approval of the first Contract. Contractors may sell direct or utilize Resellers to fulfill the Contract. Resellers may not hold a Contract. Submissions will be accepted up until **November 5, 2013, 11:00 AM ET**. Any submissions received after that time will be returned. OGS reserves the right to review this contracting area and reopen recruitments during a specified time in any subsequent years. Any additional open recruitment dates will be advertised in the Contract Reporter.

The issuing agency is the New York State Office of General Services (OGS), New York State Procurement (NYSPro). The Contracts awarded as a result of this solicitation will be centralized Contracts primarily for, but not limited to, New York State Agencies. Additionally, the Contracts may be utilized by Non-State Agencies, including political subdivisions, school districts and others authorized by law (See Contract Template §35, Non-State Agencies Participation in Centralized Contracts And Extension Of Use). Accordingly, references to the State and its Agencies as Authorized Users under this solicitation and the ensuing Contract(s) encompass and include all such entities within the definition of "Authorized User" set forth in Appendix B, §5, Definitions.

A Contract Template is attached to this Purchasing Memorandum to familiarize Bidders with the terms and conditions that will be included in the resultant Contracts from this solicitation. The Contract Template is not the final Contract. Upon the completion of any negotiations, tentative awardees will be provided with a final Contract for execution. Bidders are encouraged to review the Purchasing Memorandum for a full understanding of what needs to be submitted at the time of Bid submission, and the Contract Template for the terms and conditions that will be in the resultant Contract(s) from this solicitation.

2. SCOPE

1. Product Offerings

The following Products are within the scope of this solicitation:

Lot	Description
1. Printers	Personal and networked workgroup Printers including, but not limited to laser, LED, liquid inkjet, solid ink, label, thermal, impact, dot-matrix, photo, serial, and MICR Printers.
2. Multifunction Printers (MFPs)	Printers capable of receiving information from single-user or networked computers, that can print, scan, copy, fax and/or e-mail documents.
3. Production Printing Equipment	Production Printers, copiers, digital presses, continuous feed Printers, line Printers, digital duplicators, and wide format Printers.
4. Scanners	Desktop and workgroup Scanners, departmental and production Scanners, portable Scanners, large format Scanners, and check Scanners.

A Bidder who offers any of the Product types in one or more of the Lots above may also offer related Options, Consumables, Replaceable Service Parts, Software, and services (including, but not limited to Installation, Networking, Extended Warranties, Maintenance and other related professional services) for the Printing and Imaging Equipment.

A Bidder may also offer related Options, Consumables, Replaceable Service Parts, Software, and services for EOL Equipment that is within the scope of the Lots referenced above.

Bidders should review §2, Scope of the Contract Template for a description of all permissible offerings under the solicitation.

Bidders may offer a Deferred Payment Plan (DPP) under the resultant Contract in accordance with Contract Template §12, Deferred Payment Plan (DPP).

2. Excluded Products

The following products are not within the scope of this Contract:

1. Single function facsimile (fax) machines;
2. Whiteboards (including but not limited to, electronic and interactive boards with or without print capabilities);
3. Digital cameras and camcorders;
4. Standalone microcomputers, servers and storage systems;
5. Standalone mailing machines, scales, folders, inserters, sorters, address printers, bursters and cutters, pressure sealing mailing systems, tabbing and labeling systems, and envelope sealers;
6. Networking Products;
7. Cables (other than those required to connect the Printing and Imaging Equipment to the network or a microcomputer system);
8. Audio visual equipment;
9. Medical imaging products;
10. Microfilm equipment and scanners;
11. Typewriters;
12. Handheld scanners, bar code scanners, radio frequency scanners, film/slide scanners, and book scanners;
13. Pen-based plotters;
14. Remanufactured toner cartridges, except when remanufactured and sold as new by the Contractor for covered products as set forth in Contract Template §2.1, Product Offerings;
15. Paper, except for the Contractor's-branded product that is intended for use in the Contractor's-branded Printing and Imaging Equipment;
16. Traditional printing presses and technologies (e.g., offset, lithography, flexography, gravure, or letterpress);
17. Equipment that has a print solution that requires the Authorized User to connect the equipment through a shared server accessed via an Internet website. Equipment offered under the Contract shall have such printing functionality either removed or disabled;

18. Software that does not meet the scope of the Contract, as set forth in Contract Template §14, Software (such as enterprise content management, document management, and other microcomputer-based or server-based Software that was not developed to interact specifically with the Printing and Imaging Equipment offered under the Contract);
19. Software as a Service.

New York State Agencies that are part of the Executive Branch shall only purchase the equipment listed in Contract Template §28, Procurement Instructions, including all related Replaceable Service Parts, Consumables, Options and Extended Warranties, under Contracts PT65959 and PT65960 and the resultant Contracts under RFP 22662 and not under the resultant Contracts from this solicitation.

3. SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this IFB. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for Contract award and in the event of two findings within a four (4) year period; the Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: <http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html>

4. INQUIRIES

All inquiries concerning the Bid Documents, being this Purchasing Memorandum and the Contract Template, will be addressed to the following OGS NYSPRO designated contact(s) and issuing office:

Primary	Secondary	Tertiary
Jamie Nusbaum	Christopher Martinez	Sharon Buck
NYS Office of General Services	NYS Office of General Services	NYS Office of General Services
New York State Procurement	New York State Procurement	New York State Procurement
Corning Tower - 37th Floor	Corning Tower - 37th Floor	Corning Tower – 37th Floor
Empire State Plaza	Empire State Plaza	Empire State Plaza
Albany, New York 12242	Albany, New York 12242	Albany, New York 12242
E-Mail: sst_off_equip@ogs.ny.gov	E-Mail: sst_off_equip@ogs.ny.gov	E-Mail: sst_off_equip@ogs.ny.gov

All inquiries must be submitted in writing using Attachment 6, Inquiries Template, citing the applicable Bid Document name and document section. The completed Attachment 6 must be emailed to SST_off_equip@ogs.ny.gov by close of business, **October 17, 2013**. Inquiries submitted after this date will not be answered. A Bidder is strongly encouraged to submit inquiries at their earliest convenience. Answers to all inquiries of a substantive nature will be provided to all prospective Bidders in the form of an inquiries and answer document which will be posted to the NYSPRO Bid Calendar (<http://ogs.ny.gov/Purchase/BidCalendarLV.asp>) and released through the OGS Bidder Notification Service (BNS) (<https://online.ogs.ny.gov/vendorregnet/Default.aspx>) under Classification Code(s): 43 and 44.

Please Note: Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and an Offerer/Bidder during the procurement process. Prior to sending in any contract offer you are encouraged to familiarize yourself with these regulations. Information about the Procurement Lobbying Act and the text of the Act are available at the following URL: <http://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html>

5. REQUIREMENTS FOR CONTRACT ELIGIBILITY

This Contract is open to **Original Equipment Manufacturers (OEMs)*** who offer products in at least one of the four Lots listed above, and demonstrates proof of the following mandatory minimum qualifications:

1. Bidder shall have at least three (3) continuous years of business experience as an OEM of Printing and Imaging Equipment;
 2. Bidder shall show proof of the following:
 - A. A **minimum sales volume of \$1,000,000** in product for the pricelist offered to national public entities for the 12 month period preceding the bid opening date.
- OR**
- B. **5% of U.S. market share for shipments of Printing and Imaging Equipment** in at least one of the Lots pursuant to Contract Template §2.1, Product Offerings. Bidders may qualify for the Contract with an overall market share for a Printing and Imaging Equipment Lot or with market share in a specific segment of a Lot (e.g. U.S. large (wide) format inkjet printer shipments);
 3. Bidder shall have the financial resources necessary to perform the type, magnitude and quality of work specified in the Bid Documents, and maintained an organization capable of performing the type, magnitude and quality of the work specified in the for at least the past three (3) years.

Failure to meet any of the above mandatory minimum qualifications in whole or in part shall result in a rejection of the bid as non-responsive.

***Original Equipment Manufacturer (OEM)** - A company that has its name, Product name or logo branded on the Printing and Imaging Equipment.

6. METHOD OF AWARD OF CONTRACT

Award shall be made by nationally published pricelist to the responsive and responsible Bidder(s) whose pricing indicates that Products offered will be delivered at a reasonable price as determined by OGS NYSPRO. Because of the nature of the Products involved, and recognizing that no one Bidder will be able to supply all of the Products required by Authorized Users, award may be made to more than one Bidder. The State reserves the right to exclude from award any pricelists or individual Products that do not fall within the scope of the Contract in accordance with Contract Template §2.2, Excluded Products, or are not deemed to be offered at prices advantageous to the State.

Bidder may offer one of the following types of nationally published pricelists: 1. Manufacturer's Suggested List Price (MSLP), 2. Manufacturer's Suggested Retail Price (MSRP), 3. Governmental Pricelist, or Manufacturer's Commercial Pricelist. Bidder shall list the proposed pricelist name and date where requested in Attachment 2, Mandatory Contractor Questionnaire (Note: If Bidder fails to list the name of pricelist offered or Bids more than one (1) pricelist, their Bid may be rejected).

Contracts will be awarded only to Bidders whose schedule of prices indicates that Products and services will be delivered at a reasonable price as determined by OGS NYSPRO. "Reasonable prices" may be determined by reviewing discounts and net prices offered to GSA and the Veteran's Administration, prices on any previously awarded NYS Contract, pricing offered by other Bidders for this solicitation, contracts with other state or government entities, etc.

New York State reserves the right to require documentation to support the reasonableness of the prices offered. At the time of the Bid opening, where possible, Bidder must provide copies of at least one governmental and/or municipal contract (GSA, WSCA, other State, etc.) that shows the discount and FOB point. In the event that such contracts are not available, the Bidder shall supply invoices of sales to large entities or corporations with repeat business detailing the discount and FOB point. New York State reserves the right to reject any Bidder that does not demonstrate reasonable pricing for this solicitation.

New York State anticipates that the State shall be treated as a single entity and that prices reflect volume aggregated discounts commensurate with the statewide volume. Bidders are encouraged to offer their best possible pricing; additionally, Contractors may negotiate better pricing with Authorized Users at any time throughout the Contract period. (See §24(f), Best Pricing Offer in Appendix B, OGS General Specifications).

7. PRICELISTS/DISCOUNTS

Each Bidder must submit a copy of their nationally published pricelist on Attachment 1, Pricelist, detailing SKU/part number, item description, list pricing, discount percentage, and net pricing for each Product and service on the pricelist that the Bidder is proposing. Pricelists shall be segmented by Lot pursuant to Contract Template §2.1, Product Offerings. OGS shall review Attachment 1, Pricelist, to ensure amongst other things, that Products are properly lotted and that the pricelist does not include any excluded products as set forth in Contract Template §2.2, Excluded Products. All monetary values may be extended up to four decimal points to accommodate Click Charges under any Maintenance plans that may be offered (e.g., \$.12356 shall be rounded to

\$.1236). All discount percentage values shall not exceed two decimal places (e.g., 6%, 6.5%, 6.25% are permitted; 6.875% is not permitted).

Failure to submit Attachment 1 shall result in rejection of Bid. Bidder shall also supply with their bid a current copy of their nationally published pricelist in its original format detailing current list prices relevant to the Products the Bidder is proposing. Failure to submit a copy of the nationally published pricelist in its original format may result in rejection of bid. In no event shall NYS net price in Attachment 1 exceed the Bidder's list price of their nationally published pricelist. If NYS net prices are based on a GSA Schedule or WSCA Contract, that pricing must also be submitted with Bid.

Once awarded a Contract, the percentage discount offered to Authorized Users may, at the Contractor's option, be increased based on individual orders. Discounts may be greater, but in no instance may they be lower than the awarded discount. If Contractor is offering a single discount structure, the same discount shall be applied to all purchases made from the Contractor's pricelist.

Subsequent to award, Contractor shall be required to furnish, without charge, copies of the pricelist identical to that accepted with their Bid, including any changes (additions, deletions, etc.) pursuant to the Contract, to Authorized Users which request it. Pricelists may be furnished in either hard-copy or electronic format. If available in both formats, they shall be furnished in the format preferred by the requesting Authorized User. Upon request, the Contractor shall assist Authorized Users in the use of their pricelist.

8. VOLUME DISCOUNTS

Contractors are encouraged to offer volume discounts based on total dollars purchased statewide. Other discounts including but not limited to electronic access ordering are also encouraged. Any volume discounts offered shall be entered in Attachment 2, Mandatory Contractor Questionnaire.

9. BID SUBMISSION INFORMATION:

IMPORTANT NOTICE TO POTENTIAL BIDDERS: Receipt of these Bid Documents does not indicate that the Office of General Services, New York State Procurement has pre-determined your company's qualifications to receive a Contract. Such determination will be made after the bid opening and will be based on our evaluation of your bid submission compared to the specific requirements and qualifications contained in these Bid Documents.

The following procedures shall be used for bid submittals:

BID PREPARATION

The following items must be submitted at the time of Bid submission:

1. Original copies of the following items:

- A. Completed Attachment 9, Bidder Signature Page and Procurement Lobbying Certification (original signature and notary stamp);
- B. Completed and signed Attachment 10, Form EEO 100 – Equal Employment Opportunity Staffing Plan
- C. Completed and signed Contractor Certification, ST-220-CA
(http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)
- D. Completed and signed Attachment 7, New York State Required Certifications
- E. Proof of compliance with Workers' Compensation Coverage and Disability Benefits Coverage, as outlined in Attachment 5, Contractor Insurance Requirements. There should be two forms submitted, one for proof of Workers' Compensation (NYS form CE-200, C-105.2, U-26.3, SI-12 or GSI-105.2) and one for Disability (NYS form CE-200, DB-120.1 or DB-155).

2. Electronic copies of the following on CD or USB Flash Drive in the formats specified:

- A. Attachment 1, Pricelist ((Microsoft Excel (2010 or lower version))
- B. Current copy of Bidder's nationally published pricelist in its original format detailing current list prices relevant to the Products the Bidder is proposing in accordance with Pricelists/Discounts above ((Microsoft Excel (2010 or lower version) or PDF))
- C. Reasonableness of price documentation in accordance with Method of Award of Contract above (PDF)
- D. Copy of GSA or WSCA pricing if NYS net prices are based on a GSA Schedule or WSCA Contract in accordance with Pricelists/Discounts above ((Microsoft Excel (2010 or lower version) or PDF))
- E. Completed Attachment 2, Mandatory Contractor Questionnaire ((Microsoft Excel (2010 or lower version))
- F. Completed Attachment 3, Contractor and Reseller Information Template ((Microsoft Word (2010 or lower version))
- G. Completed Attachment 8, Encouraging Use of New York State Businesses in Contract Performance (PDF)
- H. Completed paper copy of Vendor Responsibility Questionnaire For-Profit Business Entity if online Questionnaire has not been completed (PDF)

- I. Evidence that Bidder has at least three (3) continuous years of business experience as an OEM of Printing and Imaging Equipment through the submission of documentation from an independent financial rating service or similar entity (e.g. Dunn and Bradstreet, IDC, or Gartner) (PDF)
- J. Proof of the following:
A minimum sales volume of \$1,000,000 in product for the pricelist offered to national public entities for the 12 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. NYSPro reserves the right to request copies of purchase orders and/or invoices for verification or clarification. ((Microsoft Excel (2010 or lower version) or PDF))
- OR**
5% of U.S. market share for shipments of Printing and Imaging Equipment in at least one of the Lots pursuant to Contract Template §2.1, Product Offerings. Bidders may qualify for the Contract with an overall market share for a Printing and Imaging Equipment Lot or with market share in a specific segment of a Lot (e.g. U.S. large (wide) format inkjet printer shipments). If this is not proven through the submission of documentation from an independent financial rating service or similar entity, then Bidder must provide additional evidence that it meets this requirement. (PDF)
- K. Evidence that Bidder has the financial resources necessary to perform the type, magnitude and quality of work specified in the Bid Documents, and that Bidder has maintained an organization capable of performing the type, magnitude and quality of the work specified in the Bid Documents for at least the past three (3) years. If this is not proven through the submission of a report from an independent financial rating service, then Bidder must provide additional evidence that it meets this requirement. (PDF)

In the event that a Bidder fails to submit any of the above documents with their bid, the State reserves the right to request Bidder provide such documents to the State within five (5) business days of the State's request. Bidder's failure to provide the requested documents within the five (5) business days shall result in the disqualification of the bid.

BID DELIVERY INSTRUCTIONS

Only those Bidders who furnish all required information shall be considered for evaluation. Any modification to the formatting of any attachment shall result in the Bid being found non-responsive and will result in disqualification. The following procedures shall be used for Bid submission:

Complete Bids in response to this solicitation are to be packaged, sealed and submitted to the OGS NYSPRO. Responses must be addressed to:

NYS Office of General Services
 NYS Procurement
 Corning Tower, 38th Floor
 Reception Desk
 Empire State Plaza
 Albany, NY 12242

All Bids must have a label on the outside of the box or package itemizing the following information:

1. **BID ENCLOSED** (preferably bold font, large print, all capital letters)
2. Bid Number (Bid 22661)
3. Bid Opening Date and Time (November 5, 2013, 11:00 AM ET)
4. The number of boxes or packages (i.e., 1 of 2; 2 of 2)

BID PROPOSAL LIABILITY

The State of New York will not be held liable for any cost incurred by the Bidder for work performed in the preparation and production of a Bid or for any work performed prior to the formal execution of a Contract. Bids must be received in the above office on or before **11:00 AM ET on November 5, 2013. Bidder assumes all risks for timely, properly submitted deliveries.** A Bidder is strongly encouraged to arrange for delivery of Bids to OGS **prior to** the date/time of the Bid opening. **LATE BIDS shall be rejected. E-mail or faxed Bid submissions are not acceptable and shall not be considered.** The received time of Bids will be determined by OGS by the clock at the above noted location. **NO CONSIDERATION WILL BE GIVEN TO BIDS RECEIVED AFTER THE STATED DATE AND TIME.**

IMPORTANT BUILDING ACCESS PROCEDURES

To access the Corning Tower, all visitors must check in by presenting photo identification at the Information Desk at the base of the Corning Tower. **A Bidder who elects to hand deliver its Bid is encouraged to pre-register for building access by contacting New York State Procurement's (NYSPRO) receptionist at 518-474-6262 at least 24 hours prior to the Bid submission date.** Visitors who are registered can check in directly with the Information Desk. Visitors who are not pre-registered will be directed to a designated phone to call the NYSPRO Receptionist. The Receptionist will register the visitor at that time but delays may occur. Bidders who intend to deliver Bids or conduct NYSPRO business should allow extra time to comply with these procedures. Building Access-procedures may change or be modified at any time. **Note:** Bids not received within the NYSPRO by the time and date specified will be considered late.

10. NOTIFICATION OF AWARD

The successful Bidder(s) shall be advised by OGS in accordance with Appendix B, §38, Contract Creation/Execution. Tentative award of the Contract(s) shall consist of written notice to that effect by OGS to a successful Bidder, who shall thereupon be obligated to execute a formal Contract. OGS also distributes e-mail notification to registered Authorized Users announcing the resultant contract award(s). The e-mail includes a hyperlink to the posted award on the OGS website and is sent via the OGS Purchaser Notification Service (PNS) to registered Authorized Users. Authorized Users may register for the PNS at the following URL address: <http://ogs.ny.gov/PNS/default.asp> under classification code(s) 43 and 44. All subsequent Contract updates are also sent out via the PNS. Authorized Users of the Contract submit purchase orders or other such order documents directly to the Contractor or reseller as appropriate. See Appendix B, §44, Purchase Orders.

11. BIDDER DEBRIEFING

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or Bid. After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or Bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 days of posting of the Contract award on the OGS website.

12. NEW YORK STATE PROCUREMENT RIGHTS

New York State reserves the right to:

1. Reject any or all Bids received in response to the solicitation;
2. Withdraw the solicitation at any time, at the Agency's sole discretion;
3. Make an award under the solicitation in whole or in part;
4. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of the solicitation;
5. Seek clarifications and revisions of Bids;
6. Prior to the Bid opening, amend the solicitation requirements to correct errors or oversights, or to supply additional information, as it becomes available;
7. Prior to the Bid opening, direct Bidders to submit Bid modifications addressing subsequent solicitation amendments;
8. Change any of the schedule dates with notification through the OGS Bidder Notification Service (BNS);
9. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders;
10. Waive any requirements that are not material;
11. Utilize any and all ideas submitted in the Bids received;
12. Negotiate with the Bidder responding to the solicitation within the solicitation requirements to serve the best interests of the State. This includes requesting increased discounts and clarifications of any or all Bidders' Bids;
13. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's Bid and/or to determine a Bidder's compliance with the requirements of the solicitation; and
14. Select and award the Contract to other than the selected Bidder in the event of unsuccessful negotiations or, optionally, in other specified circumstances as detailed in the solicitation requirements.

13. NEW YORK STATE VENDOR FILE REGISTRATION

Prior to being awarded a Contract pursuant to this Solicitation, the Bidder(s) and any designated authorized reseller(s) who accept payment directly from the State must be registered in the New York State Vendor File (Vendor File) administered by the OSC. This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to your company and each of your authorized resellers (if any) for usage on all future transactions with New York

State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage certain vendor information in one central location for all transactions related to the State of New York.

If the Bidder is already registered in the Vendor File, the vendor must enter the vendor's ten-digit Vendor ID in Attachment 3, Contractor and Reseller Information Template. For authorized resellers already registered in the Vendor File, Bidders must enter their ten-digit Vendor ID along with the authorized reseller's information in Attachment 3.

If the Bidder is not currently registered in the Vendor File, the Bidder must request assignment of a Vendor ID number from OGS. Complete the OSC Substitute W-9 Form (http://www.osc.state.ny.us/vendors/forms/ac3237_fe.pdf) and submit the form to OGS **in advance** of your Bid. Please send this document to the Primary Designated Contact in the solicitation. In addition, if an authorized reseller(s) is to be used that does not have a Vendor ID, an OSC Substitute W-9 form (http://www.osc.state.ny.us/vendors/forms/ac3237_fe.pdf) should be completed by each designated authorized reseller and submitted to OGS. **The OGS will initiate the vendor registration process** for all Bidders and their authorized resellers. Once the process is initiated, registrants will receive an e-mail identifying their unique ten-digit Vendor ID and instructions on how to enroll in the online Vendor Self-Service application. For more information on the Vendor File please visit the following website: http://www.osc.state.ny.us/vendor_management/.

14. NYS VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY (hereinafter the "questionnaire")

OGS conducts a review of prospective contractors ("Bidders") to provide reasonable assurances that the Bidder is responsive and responsible. A Questionnaire is used for non-construction contracts and is designed to provide information to assess a Bidder's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a Bid, Bidder agrees to fully and accurately complete the "Questionnaire." The Bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Bidder is responsible, and that the State will be relying upon the Bidder's responses to the Questionnaire when making its responsibility determination.

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

OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Bidders opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

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

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

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

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

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

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

15. TAX LAW §5-A

A Bidder is required to file the completed and notarized Form ST-220-CA with OGS certifying that the Bidder filed the ST-220-TD with NYS Department of Taxation and Finance (DTF). Note: NYS Department of Taxation and Finance receives the completed Form ST-220-TD, not OGS. OGS ONLY receives the Form ST-220-CA. Form ST-220-CA must be filed with the Bid and submitted to the procuring covered Agency certifying that the Contractor filed the ST-220-TD with DTF. Proposed Contractors should complete and return the certification forms within five (5) business days of request (if the forms are not completed and returned with Bid submission). Failure to make either of these filings may render a Bidder non-responsive. Bidders shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Website links to the Contractor certification forms and instructions are provided below. Form No. ST-220-TD must be filed with and returned directly to DTF and can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Contractor, its affiliate(s), or its subcontractor(s), a new Form No. ST-220-TD must be filed with DTF. Form ST-220-CA must be submitted to OGS. This form provides the required certification that the Contractor filed the ST-220-TD with DTF. This form can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf.

Form ST-220-CA should be filed with the Bid and submitted to the OGS. If the form is not submitted with the Bid, the Bidder must submit the completed form to OGS within five (5) business days of receiving a written request to do so from OGS. Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain Contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain Contractors the obligation to certify whether or not the Contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and Contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving Agency, from approving a Contract awarded to a Contractor meeting the registration requirements but who is not so registered in accordance with the law.

Vendors may call DTF at 518-485-2889 for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF website: <http://www.tax.ny.gov/>.

16. NEW YORK STATE REQUIRED CERTIFICATIONS

A Bidder is required to submit the signed New York State Required Certifications (Attachment 7, New York State Required Certifications) with its bid. Failure to submit these documents may result in bid being considered non-responsive and may result in bid being rejected.

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

New York State Law

Pursuant to New York State Executive Law Article 15-A, OGS recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women in the performance of OGS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-

owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts.

Equal Employment Opportunity Requirements

By submission of a Bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the Bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to OGS, a workforce utilization report identifying the workforce actually utilized on the Contract if known. Form EEO 100 is set forth in Attachment 10.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Business Participation Opportunities For MWBEs

For purposes of this procurement, OGS has conducted a comprehensive search and has determined that the contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers and suppliers to the awarded contractors. Contractors are however encouraged to make every good faith effort to promote and assist the participation of New York State Certified Minority and Women-owned Business Enterprises (MWBE) on this contract for the provision of services and materials. To locate New York State Certified MWBEs, the directory of Certified Businesses can be viewed at:

<https://ny.newycontracts.com/FrontEnd/VendorSearchPublic.asp>

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

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

18. IRAN DIVESTMENT ACT

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should OGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OGS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then OGS shall take such action as may be appropriate and provided for by law, rule, or Contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

OGS reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a Contract, and to pursue a responsibility review with respect to any entity that is awarded a Contract and appears on the Prohibited Entities list after Contract award.

19. TOLL-FREE NUMBER

Contractor must provide a toll-free telephone number for Authorized User usage. Contractor must staff this toll-free number at a minimum from 9:00 AM to 5:00 PM Monday through Friday, excluding New York State or federal holidays. If Contractor does not currently maintain a toll-free number, the Contractor must certify its willingness to establish one prior to award of Contract. Contract award is contingent upon the Contractor's establishment of this toll free number.

20. INSURANCE REQUIREMENTS

Upon tentative award, Contractor shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 5, Contractor Insurance Requirements. The Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 5, Paragraph A.3., Certificates of Insurance/Notices.

21. PREFERRED SOURCE PRODUCTS

Bidders should note that State Finance Law §162 requires that many governmental entities, including Executive Agencies, afford first priority to the products/services of Preferred Source suppliers such as Correctional Industries (Corcraft), National Industries for the Blind (NIB) and NYS Industries for the Disabled (NYSID), when such products/services meet the form, function and, utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more Preferred Sources. In the Contract, agencies will be reminded to comply with the statutory requirements and resulting guidelines with respect to affording first priority to the Preferred Sources.

Resultant Contractor will be required to prominently display the following language on all pricelists and Contract updates to agencies relative to the award: *Agencies Note: Some products/services in this Contract may be available from one or more Preferred Sources. Agencies are reminded to comply with the statutory requirements under §162 of the State Finance Law and the guidelines issued by the State Procurement Council to afford first priority to products/services available from Preferred Sources which meet your form, function and utility.*

22. TERMS AND CONDITIONS

A Bidder should note that Appendix A, Standard Clauses For New York State Contracts, dated December 2012, attached to the Contract Template, is hereby expressly made a part of the Bid Documents as fully as if set forth at length herein. The statutory provisions govern over the contractual language. Further, a Bidder should note that Appendix B, Office of General Services General Specifications, dated July 2006, attached to the Contract Template, is hereby expressly made a part of the Bid Documents as fully as if set forth at length herein and shall govern any situations not covered by the Bid Documents or Appendix A. A Bidder should also note that Appendix C – Article 15-A of the Executive Law, attached to the Contract Template, is hereby expressly made a part of the Bid Documents as fully as if set forth at length herein and shall govern any situations not covered by the Bid Documents or Appendix A. All three appendices shall be incorporated into the resulting Contracts.

Bidders are encouraged to review the Contract Template for the terms and conditions that will be in the resultant Contract(s) from this solicitation.

**[CLICK HERE TO DOWNLOAD THE
PRINTING AND IMAGING EQUIPMENT CONTACT TEMPLATE AND BID DOCUMENTS](#)**

* * * * *