

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 – 76000 Oracle - Software & Related Services (Oracle USA, Inc) Statewide	
	Classification Code(s): 43	
Award Number :	<u>NEG-20944</u>	(Replaces Award 00934)
Contract Period :	June 26, 2008 – June 25, 2013, with 5 year renewal option	
Bid Opening Date :	NA	
Date of Issue :	July 1, 2008	
Contractor Information :	Appears on Page 2 of this Award	

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : James Jasiewicz Title : Senior Purchasing Agent Phone : 518-486-5238 Fax : 518-486-6867 E-mail : james.jasiewicz@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

This is a comprehensive contract for the acquisition of Oracle Software, Products & Services

PR # 20944

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT.#</u>
PT64000	Oracle USA, Inc. 1910 Oracle Way Reston, VA 20190	(703) 364-3281 (703) 364-3281 FAX (800) 633-0738	84-1332677
	Sales/Billing - Application Programs Greg Caito - Application Sales Manager Greg.caito@oracle.com 7 Southwoods Blvd Albany, NY 12211	(518) 593-3406 (518) 432-6841 FAX	
	Sales/Billing - Technology Programs George Polino - Sales Manager George.polino@oracle.com 7 Southwoods Blvd Albany, NY 12211	(518) 257-7418 (518) 432-6841 FAX	
	Maintenance/ Sevice	(800) 833-3536	
	Education Sales Mazie Baskin Mazie.baskin@oracle.com Oracle Corp. 1900 Oracle Way Reston, VA 20190	(703) 364-2199	

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

(continued)

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.

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

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

REQUEST FOR CHANGE:

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

ELECTRONIC PAYMENTS:

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

NOTE TO CONTRACTOR:

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

OVERLAPPING CONTRACT ITEMS:

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

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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).

INSERT Contract Performance Report at end of Award

IMPORTANT:

Appropriate clauses from the bid solicitation document (modified for the Contract Award Notification) should also be included to assist our customers in the use of the contract.

CONTRACTOR CONSULTANT LAW REQUIREMENTS:

It is the responsibility of each agency purchasing consultant services to ensure compliance with the requirements of Chapter 10 of the Laws of 2006 with respect to the Consultant Disclosure Legislation. Agencies must ensure that Disclosure Form A, a one time report of planned employment data for the entire term of the contract is submitted to OSC for contract approval. Contractors must submit the Consultant Disclosure Form B, the Contractor's **Annual** Employment Report of employment information by May 15th of each year for the fiscal year April 1st through March 31st. Form B is submitted annually to the contracting agency, the Office of the State Comptroller and the Department of Civil Service to report historical information, detailing actual employment data for each fiscal year (April 1 to March 31) the contract is in effect. For more information regarding this legislation and its requirements, please refer to the requirement "**Employee Information Required To Be Reported By Certain Consultant Contractors And Service Contractors**" contained in the original bid or contract template and the OSC G Bulletin 226:

<http://www.osc.state.ny.us/agencies/gbull/g-226.htm>.

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PROCUREMENT PROCEDURES:

The following guidelines will assist State agencies in negotiating large purchases. State agencies should carefully consider all alternatives to determine which provides the best value.

Agencies are reminded that all software purchases greater than \$100,000 in value require prior approval from the NYS Office for Technology. Refer to NYS Information Technology Policy Plan to Procure NYS-P08001, which is available at OFT's web site at <http://www.oft.state.ny.us/policy/index.html>

1. Determine if more than one Contractor can provide the required equipment. If only one Contractor can fulfill the requirement, negotiate the best deal with this Contractor. The following points should be considered:
 - a. When is the best time to negotiate with the Contractor (for example: market place conditions, company's fiscal year end)? Note that this may be different for each contractor. End users should seek information that enables them to properly plan the best time to negotiate.
 - b. What additional incentives would be most useful to the agency, extended warranty, training, trade in, etc. (OSC Bulletin No. G-68 is a good source for negotiation techniques.)
2. If more than one Contractor can provide the required equipment, create a short description of your requirement, being as specific as possible, and send copies to each Contractor who may be able to meet the requirements. Select the offer that provides the best value.
3. Agencies should build a procurement record that includes a memorandum "For the Record" for any order exceeding **\$150,000.00**. This record should detail the negotiating procedure used and why the equipment purchased has been determined to be the most cost-effective for current and future needs.
4. State agencies should file all orders directly with the Office of the State Comptroller in accordance with their rules and regulations. A copy of the procurement record should accompany the purchase order when forwarded to the Office of the State Comptroller for final approval.
5. No approval by the Office of General Services is required.
6. Although not under OGS purchasing authority, **political subdivisions** should exercise similar judgment when making large purchases from OGS PSG contracts.
7. These procedures may be modified in the future as needed to reflect changes in procurement law.

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FREQUENTLY ASKED QUESTIONS:

1. What Oracle contracts are available for use?

The Statewide centralized contract for the acquisition of proprietary software and related services is Contract No.PT64000. This centralized contract is with Oracle USA, Inc. and the Office of General Services, and includes software, maintenance and certain limited services.

Prior to using this agreement (PT64000), all state agencies should first contact the Office for Technology for information and details regarding contract CM00884 for Oracle license and maintenance purchases. Please contact Mary McGinty at (518) 474-4263.

2. What product types are available under the Oracle centralized contract?

The centralized contract encompasses Oracle technology and applications products including: its PeopleSoft, eBusiness Suite, JD Edwards, Government Risk & Compliance, Agile, Demantra, Hyperion and Siebel software product lines. In addition, technical support, Advanced Customer Services and Oracle University Training can be acquired through the centralized contract.

3. Where can I find additional information about lifetime support?

The Oracle Technical Support Policies including Oracle Lifetime Support are provided as an exhibit to the centralized contract. Please review Appendix E, Submission #4 for a detailed description of applicable support.

4. What is technical support re-pricing? How does the applicable discounting work?

In the event that an Authorized User decides to terminate and de-support a subset of Licensed Software in a license set, the Technical Support fees for the remaining licenses will be priced in accordance with the Technical Support Policies in effect at the time of termination. The applicable discount to be used in the event of support re-pricing is set forth in the Appendix E, Submission #4A. The Contractor's license set definition is available in the Technical Support Policies.

5. What is Advanced Customer Services? What are the restrictions to Advanced Customer Services under this contract?

Oracle Advanced Customer Services are an extension on Oracle technical support and provide the ability to provide on-site and remote assistance in key areas in support of Oracle product implementation and production support. These services are advisory based and would not include consulting services. Key services available under the centralized contract include:

- Assisted Services - Onsite support assistance & knowledge transfer
- Priority Services - Priority routing and resolution of Service Requests
- Technical Account Management Services – Implementation Guidance Services
- Application Expert Services – Application specific technical assistance
- and specific Packaged Services – Named technical teams providing enhanced remote assistance

Authorized Users may acquire maintenance, Advanced Customer Services, and training, under the centralized contract. Training and Advanced Customer Services as set forth in Appendix E (Submissions #5 and #6) may be acquired from Contractor on a limited basis, not to exceed twenty (20%) percent of the total order price for software licenses and maintenance. In addition there is a \$50,000.00 minimum order for ACS.

Consulting Services are not allowed under this contract.

6. What is the purpose of the Order Form and what should I be aware of on the order form?

The Order Form together with the Purchase Order, is the mechanism required to order approved products and services from the state contract. There are three "check" boxes you are required to make a determination on and to check. By checking these you acknowledge and understand the responsibilities and obligations that go along with checking these boxes. These relate to: 1) additional terms 2) acceptance period and 3) security procedures. Your Oracle contact will provide you with the Order Form along with the quote for the software and/or services you want to acquire. An example of the Order Form is listed in Appendix E, Submission #7.

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7. Explain how the Migration Table applies to me if I am converting to new license metrics.

Appendix E, Submission #8 provides a detailed table identifying the migration ratios available to Authorized Users who elect to migrate older Oracle licenses to the current metrics available from Oracle today. A review of an Authorized User's current support contract will identify the specific quantities and types of licenses an Authorized User has purchased. The table in Submission #8 provides the ratios available when migrating certain older style metrics to currently available metrics. Contact your Oracle sales representative if you would like a review of current license inventory. If there are questions/discrepancies regarding what Oracle indicates their records show and what you believe you are currently licensing, it is advisable to engage your Oracle sales person at this time.

8. How does Oracle price its software under the centralized contract?

For its technology products, Oracle has two primary pricing models. Customers can choose between Named User Plus and Per Processor pricing models based on their specific needs. Named User Plus is ideal for organizations with discrete and countable user populations. For uncountable populations, processor licensing is required. The Processor pricing model is based on the number of processors a customer has installed and the number of those processors that the customer has operating.

For its application products, Customers can choose to License Products on a "Component" basis, which depending on the particular Oracle application, would provide a quantity of licenses at the Metric Listed in the Price List. For example, if the Metric for the particular module is "Application User", then that module may be purchased for a specified number of Application Users subject to the minimum quantity provided. Similarly, other application modules may use different metrics such as "Employee", "Record", "Processor", etc...

9. What are the licensing requirements to accommodate multi-core processors?

Oracle recognizes each core as a separate processor; however, the processor definition has been amended when counting multi-core chips when determining the total number of processor licenses required. There are four categories for processor licensing. Each category has a unique processor-pricing factor, which is used to determine the total number of processor licenses required.

Oracle Processor Licensing:	Cores	Processor Factor	CPUs for SW Licenses
UltraSPARC T1	8	0.25	2
AMD/Intel	2	0.50	1
All other Multi-core Chips (IBM Pseries, SM USIV, etc.)	2	0.75	2
Single Core Servers	1	1.00	1

To find the total number of processors, which require licensing, for a Sun UltraSPARC T1 processor with 4, 6 or 8 cores at 1.0 gigahertz or 8 cores at 1.2 gigahertz for only those servers specified on the Sun Server Table which can be accessed at <http://oracle.com/contracts>, "n" cores shall be determined by multiplying the total number of cores by a factor of .25. For the purposes of counting the number of processors which require licensing for AMD and Intel multi-core chips, "n" cores shall be determined by multiplying the total number of cores by a factor of .50. For the purposes of counting the number of processors which require licensing for all hardware platforms not otherwise specified in this section, a multi-core chip with "n" cores shall be determined by multiplying "n" cores by a factor of .75. All cores on all multi-core chips for each licensed program for each factor listed below are to be aggregated before multiplying by the appropriate factor and all fractions of a number are to be rounded up to the next whole number. Notwithstanding the above, when licensing Oracle Standard Edition One or Standard Edition programs on servers with a maximum of 1 processor with 1 or 2 cores, only 1 processor shall be counted.

10. Where can I find more information about Oracle Licensing Guidelines?

To learn more about Oracle Software Licensing Guidelines please click the link below:

<http://www.oracle.com/corporate/pricing/sig.html>

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**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, 37th Floor
 Corning 2nd Tower - Empire State Plaza
 Albany, New York 12242
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