

# Revised (4/15/24)

# Request for Quote 24-02

# Microsoft Aggregate Agreement

(This RFQ replaces RFQ 24-01 which was cancelled before award)

<b>DESIGNATED CONTACTS</b>		
<b>RFQ Title</b> Microsoft Aggregate Agreement (Statewide)	<b>RFQ Number</b> 24-02	
<b>NYS Office of General Services Procurement Services 38<sup>th</sup> Floor, Corning Tower, ESP Albany, NY 12242</b>	<b>Authorized User Delivery Information</b> Multiple Locations Statewide	
<b>DESIGNATED CONTACTS</b>		
<b>Name(s)</b>	<b>E-Mail</b>	
Maureen Younkin, Allison White, Katherine Dias, Karley Delaney, Shekia Woods, and Kylesha Davis	ogs.sm.PS.Microsoft@ogs.ny.gov	
<p><b>Authorized User shall indicate if Procurement Lobbying Law/Restricted Period is in effect:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  <i>Where Procurement Lobbying Law is deemed applicable by the Authorized User, by signing, Vendor affirms that it understands and agrees to comply with the Authorized User's policies and procedures relative to permissible contacts. Information may be accessed at: Procurement Lobbying:</i>  <a href="http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html">http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html</a></p>		
<b>RFQ LOTS</b>		
<p>This RFQ is for Products from the following checked Lots as defined in Award # 22802 – Information Technology Umbrella Contract – Manufacturer Based (Statewide):</p> <p style="text-align: center;"><input checked="" type="checkbox"/> Lot 1 – Software    <input type="checkbox"/> Lot 2 – Hardware    <input checked="" type="checkbox"/> Lot 3- Cloud Services    <input type="checkbox"/> Lot 4 – Implementation*</p> <p><b>OGS is seeking competitive quotes from Resellers of Microsoft Manufacturer Contract PM69723 for Products in the above-referenced Lots, collectively referred to as the Bidders.</b></p>		
<b>KEY EVENTS AND DATES</b>		
<b>Event</b>	<b>Date</b>	<b>Time</b>
RFQ Release Date	April 4, 2024	N/A
Attachment 4 RFQ 24-02 Questions and Comments - Due	April 10, 2024	11:59 PM EST
RFQ Submission Due	<del>April 19</del> <b>April 25, 2024</b>	<del>1:00-11:59 PM EST</del>
Estimated Agreement Start Date	Upon OSC approval	N/A
<p><b>IS THE RFQ BIDDER POOL LIMITED TO M/WBE, SB, AND SDVOB VENDORS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		
<b>BASIS FOR AWARD</b>	<input type="checkbox"/> Lowest Price Meeting Specified Technical Requirements <input type="checkbox"/> Lowest Price Meeting Specified Technical Requirements <b>and</b> Mandatory Pass/Fail Requirements <input checked="" type="checkbox"/> Best Value meeting specified technical requirements and mandatory pass/fail requirements	
<b>E-RATE ELIGIBLE</b>	<input type="checkbox"/> Yes (E-Rate Discounts are Required) _____ % <input checked="" type="checkbox"/> No	

- |                                   |   |
|-----------------------------------|---|
| <b>ATTACHMENTS and APPENDICES</b> | <ul style="list-style-type: none"> <li>• Attachment 1- Administrative Response</li> <li>• Attachment 2 - Technical Response</li> <li>• Attachment 3 - Financial Response</li> <li>• Attachment 4 - RFQ 24-02 Questions and Comments</li> <li>• Attachment 5 - How to Use the Microsoft Aggregate Agreement</li> <li>• Attachment 6 - FAQ</li> <li>• Appendix 1 - Microsoft Business Terms (MBT)</li> <li>• Appendix 1, Addendum C - MBT Program Agreements and Enrollments</li> <li>• Appendix 2 - Aggregate Agreement Modification Procedure</li> <li>• Appendix 3 - Report of Aggregate Agreement Sales</li> <li>• Manufacturer Umbrella Contract PM69723 (includes Appendix A (Standard Clauses For New York State Contracts); New York Appendix B (Office of General Services General Specifications) and all attachments, amendments and addenda thereto at the following link:<br/><a href="https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802AppendicesPageCombo.pdf">https://online.ogs.ny.gov/purchase/snt/awardnotes/7360022802AppendicesPageCombo.pdf</a></li> <li>• Microsoft Contract Price list: <a href="https://comet.ogs.ny.gov/search/pricelist/">https://comet.ogs.ny.gov/search/pricelist/</a> (Choose: Vendor – Microsoft Corporation, Lot - 1 and 3)</li> </ul> |
|-----------------------------------|---|

The Authorized User will not be held liable for any cost incurred by the Bidders for work performed in the preparation of a response to this RFQ or for any work performed prior to the formal execution of an Authorized User Agreement. Responses to the RFQ must be received by the deadline specified above or they will be subject to the OGS Late RFQ policy. LATE RFQ responses may be rejected. Bidders assume all risks for timely, properly submitted deliveries. A Bidder is strongly encouraged to arrange for delivery of RFQ responses prior to the date of the RFQ opening. The received time of a RFQ response will be determined by the Authorized User. **All purchases resulting from this RFQ shall be in accordance with terms and conditions of the OGS Information Technology Umbrella Contract – Manufacturer Based Contract PM69723, the MBT, and any additional terms and conditions set forth in this RFQ and its Attachments.**

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## A. OVERVIEW.

The New York State Office of General Services (“OGS”) is seeking best and final quotes from qualified Resellers of the OGS Group 73600 Award 22802 Information Technology Umbrella Contract – Manufacturer Based (Statewide) Contract PM69723 and all amendments and addenda thereto (“Contract”) for a Request for Quotes in which the Microsoft Business Terms Agreement (MBT) including all appendices, Program Agreements and any subsequent updates and amendments to the MBT set forth as Appendix 1 is incorporated (collectively referred to as “RFQ”) to acquire the Microsoft software and online services as specified in the RFQ. The responding party’s submission (“Bid”) shall be deemed subject to the terms of the Contract and RFQ. The award made from the RFQ shall be referred to as the Microsoft Aggregate Agreement 24-02 (“Aggregate Agreement”). The resulting Aggregate Agreement terms shall apply to all new and renewal Enrollments established pursuant to the Aggregate Agreement under Contract PM69723. Migrated Enrollments are not included in the RFQ or resulting Aggregate Agreement (see Microsoft Business Terms Agreement Section 2.6 - Appendix B Additional Or Alternative Terms for additional information regarding Migration Enrollments).

OGS and Microsoft have agreed to a Microsoft Business Terms Agreement (MBT), which includes the additional or alternative terms and conditions made in accordance with Section 28 of Appendix B of Contract PM69723 for purposes of an Aggregate Agreement and establishes the overall licensing framework and the applicable terms and conditions for Authorized User use and acquisition of Microsoft Product, which is limited to software and certain Online Services.

The purpose of this RFQ is to establish an Aggregate Agreement that all Authorized Users located within NYS can utilize to purchase these Microsoft products in Lot 1 and Lot 3 of the Contract. The State reserves the right, in its sole discretion, to expand or limit the Products that are in-scope under such Aggregate Agreement without a formal amendment. The Aggregate Agreement resulting from this RFQ will be subject to the terms and conditions of the Contract and MBT (set forth as Appendix 1) including all appendices, Program Agreements, Enrollments and any subsequent updates and amendments to the MBT.

References to Authorized Users include all entities meeting the definition of “Authorized User” set forth in State Finance Law §163(1)(k). All Authorized Users (estimated at 7,600) of OGS Centralized Contracts will be able to utilize the Aggregate Agreement resulting from this RFQ.

This RFQ outlines the terms and conditions, and all applicable information required for submitting a Quote. Bidders should pay strict attention to the RFQ Submission Due Date and time to avoid disqualification. To ensure compliance with RFQ requirements and avoid possible disqualification, Bidder must follow the format and instructions in Section Q, RFQ Submission Requirements.

**Note:** The MBT (revised Appendix 1) is a final unexecuted version of the MBT. The MBT will be signed by Microsoft and OGS prior to the start date of the Aggregate Agreement resulting from RFQ 24-02. ~~The MBT (Appendix 1) is a draft which has not yet been executed by Microsoft and OGS and remains subject to change. OGS anticipates, at this time, that the final version of the MBT will not be materially different than the attached draft. Bidders will be provided with the final version of the MBT prior to the deadline for RFQ Submission Due Date listed in the Key Events and Dates.~~

**B. DEFINITIONS**

In addition to the terms defined elsewhere, the following definitions shall apply in this RFQ 24-02.

Term	Definition
Aggregate Agreement Price	Cost Minus or Cost Plus Percentage bid applied to Net Reseller Cost. Aggregate Agreement Price for each SKU in a Price List has an Aggregate Agreement Price.
Enrollment	For purpose of this RFQ document, the term Enrollment refers to Enrollments and Affiliate Registration Forms.
Microsoft NYS Price	Net price extended to NYS from Microsoft for each SKU on their NYS Price List, NYS Net Contract Price found in Manufacturer Umbrella Contract PM69723 Appendix E. Microsoft NYS Prices are Not to Exceed prices and apply to all purchases under the Contract, including purchases made pursuant to an Aggregate Agreement
Net Reseller Cost	The confidential price Microsoft charges its Reseller(s) for a SKU.
Quote, RFQ Submission	A Reseller's bid response package.

**C. SCOPE**

Products authorized by OGS for acquisition under the resulting Aggregate Agreement are Microsoft Software and certain Online Services as detailed below. All Products must be on the Microsoft NYS Price List at the time of the RFQ Submission Due date.

**Software.**

All Products classified by Microsoft as Software are authorized for acquisition under the resulting Aggregate Agreement, except as specifically excluded by OGS. OGS reserves the right in its sole discretion to add or remove Products from the scope of the Aggregate Agreement at any time during the term of the Aggregate Agreement, upon notice to the Reseller.

**Online Services.**

Online Services authorized for acquisition under the resulting Agreement are limited to Office 365, Azure, Intune, Dynamic CRM, and Github Enterprise. The only Online Services authorized for acquisition under the resulting Agreement for use with Criminal Justice Information Services (“CJIS”) data are Office 365, Azure, and CRM. All other Online Services are **not** authorized for acquisition. OGS reserves the right in its sole discretion to add or remove Products from the scope of the Agreement at any time during the term of the Agreement, upon notice to the Reseller/Contractor.

**Out-Of-Scope.**

The following are expressly excluded from the scope of this RFQ and the resulting Aggregate Agreement:

- Any items considered out of scope for the MBT, as indicated in the Out-of-Scope Work and Products section included in MBT Section 1.7.
- Paid training services.

**D. NYS COMPTROLLER APPROVAL AND EFFECTIVE DATE.**

In accordance with Section 112 of the State Finance Law, results of the RFQ shall not be valid, effective, or binding upon the State until the Aggregate Agreement resulting from the RFQ has been executed by all parties and approved by the Office of the New York State Comptroller (“OSC”). The effective date of the Aggregate Agreement will be the date of OSC approval. Purchase orders or other procurement

transactions issued pursuant to the approved Aggregate Agreement may also be subject to OSC approval.

The Aggregate Agreement, once approved, is filed with OSC as a Centralized RFQ under the OGS Microsoft Manufacturer Umbrella Contract PM69723.

#### **E. INCORPORATION.**

The entire MBT executed by OGS and Microsoft, and portions of the successful Bidder's Quote and this RFQ, shall be incorporated into a final Microsoft Aggregate Agreement, in the form of a separate document to be executed by Reseller and OGS.

#### **F. COMMENCEMENT OF SALES.**

The awarded Reseller can commence sales from any resulting Aggregate Agreement only upon OGS acceptance and posting of the Aggregate Agreement.

#### **G. AGGREGATE AGREEMENT TERM.**

The term of any resulting Aggregate Agreement shall be five (5) years. The term shall not commence until OGS execution, final approval by the Office of the State Comptroller (OSC), and posting of the final executed documents to the OGS Procurement Services website. OGS reserves the right, at its sole discretion, to extend the Aggregate Agreement for a period up to an additional one (1) year upon written notice to Reseller and Microsoft. However, the term and all extensions for the Aggregate Agreement shall terminate upon expiration or termination of the Microsoft Business Terms Agreement (MBT).

#### **SHORT TERM EXTENSION.**

OGS reserves the right to seek an additional short-term extension for the Aggregate Agreement in accordance with Manufacturer Umbrella Contract, Section 2.18, Short Term Extension:

In the event a replacement Aggregate Agreement has not been issued, any Aggregate Agreement let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to three (3) months upon notice to the Reseller and Microsoft with the same terms and conditions as the original Aggregate Agreement including, but not limited to, prices and delivery requirements. With the concurrence of the Reseller and Microsoft, the extension may be for a period of up to six (6) months in lieu of three (3) months. However, this extension terminates should a replacement Aggregate Agreement be issued in the interim.

#### **H. RFQ ORDER OF PRECEDENCE.**

1. Appendix A, Standard Clauses for all NYS Contracts
2. Contract PM69723, including the additional or alternative terms and conditions made in accordance with Section 28 of Appendix B of Contract PM69723 for purposes of the MBT as set forth in the MBT, and all appendices, attachments, amendments, and addenda thereto in the order of precedence set forth therein
3. Appendix 1, Microsoft Business Terms (MBT) including associated Program Agreements and Enrollments
4. This document, RFQ #24-02, including all Appendices and Attachments

#### **I. RESULTING AGREEMENT ORDER OF PRECEDENCE.**

Order of Precedence for the resulting Aggregate Agreement will be as stated in MBT Section 2.2 Aggregate Agreement Documents/Conflicts of Terms.

#### **J. BIDDER ELIGIBILITY.**

Bids shall be accepted only from Bidders that meet all of the following requirements:

- Bidder must be a current Reseller on Microsoft’s Manufacturer Umbrella Contract PM69723
- Bidder must be certified by Microsoft as both a Licensing Solutions Partner (LSP) and as an Authorized Educational Reseller (AER)
- Bidder must be authorized by Microsoft to provide the entire Microsoft Product line available in Lot 1 (Software) and Lot 3 (Cloud) for Microsoft’s Manufacturer Umbrella Contract PM69723
- Bidder must have the financial stability to service the Aggregate Agreement resulting from this RFQ.
- Bidder must have the capacity to service an agreement with sales volume similar to the scope of this RFQ (See Chart 1- Program Agreements for historic spend).

Award may be conditioned on Bidder providing evidence of eligibility requirements above. Bidder must maintain all Bidder eligibility criteria through RFQ and Aggregate Agreement term. OGS reserves the right to request demonstration of all bidder eligibility criteria, and to reject any Bidder or cancel any awarded Reseller that does not comply with a request from OGS to demonstrate eligibility.

Bidder must attest to its eligibility using Attachment 1 – Administrative Response.

#### **K. AGGREGATE AGREEMENT ADMINISTRATOR AND OTHER CONTACTS.**

At time of Quote the Bidder shall designate a dedicated Aggregate Agreement administrator to serve throughout the duration of the resulting Aggregate Agreement term and to support the updating and management of the Aggregate Agreement on a timely basis. The Aggregate Agreement administrator must have a minimum of five (5) years of experience administering contracts. The Aggregate Agreement administrator also must have experience managing large scale accounts.

Awarded Reseller must notify OGS within five (5) business days if its Aggregate Agreement administrator changes and provide an interim contact person until the position is filled. The interim contact person and the replacement Aggregate Agreement administrator must meet the minimum qualifications stated above. OGS reserves the right to reject a replacement Aggregate Agreement administrator proposed by the Reseller. Changes to Reseller contact information, including the designation of a new Agreement administrator, shall be submitted via e-mail using Appendix 2, Aggregate Agreement Modification Procedure.

Awarded Reseller must also provide additional contacts as specified in Attachment 1 for the Aggregate Agreement and maintain a toll-free telephone and/or online functionality for customer support.

Bidder must submit the contact information of the individual who will serve as the Aggregate Agreement Administrator and other contact information per the requirements set forth above, in Attachment 1 – Administrative Response.

#### **L. AUTHORIZED USER TERMS AND CONDITIONS.**

OGS and Microsoft have agreed to a Microsoft Business Terms Agreement (MBT), which includes the additional or alternative terms and conditions made in accordance with Section 28 of Appendix B of Contract PM69723 for purposes of an Aggregate Agreement. Authorized Users of the Aggregate Agreement may propose terms and conditions specific to their Enrollment. Any such terms and conditions must be presented to Microsoft for consideration prior to entering into an Enrollment.

#### **M. QUESTIONS / COMMENTS.**

All questions must be submitted in writing using Attachment 4 - RFQ 24-02 Questions and Comments citing the particular document name and document section. The questions shall be emailed to the

Designated Contact E-Mail Address indicated on the Cover Page of this RFQ, with the subject line “RFQ 24-02 - Questions and Comments”.

Bidders are strongly encouraged to submit questions as early as possible. However, all questions must be submitted by the Attachment 4 - RFQ Questions and Comments Due date and time listed on the Cover Page of this RFQ. Answers to all questions of a substantive nature shall be provided, in the form of a question and answer document, to all Bidders who received this RFQ.

#### **N. DEBRIEFING.**

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful bidder may request a debriefing regarding the reasons that the bid submitted by the bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of notification by OGS that the bid submitted by the bidder was not selected for award. Requests should be submitted in writing to the Designated Contacts E-Mail Address indicated on the Cover Page of this RFQ.

#### **O. DISPUTE RESOLUTION PROCESS.**

Should a dispute or protest arise regarding this RFQ, the dispute or protest will be considered and decided by the OGS in accordance with the Appendix B Section 64 (Disputes).

Disputes regarding the Aggregate Agreement will be considered and decided by the Authorized User in accordance with the MBT Section 2.6 K.

#### **P. RFQ RESPONSE REQUIREMENTS.**

##### **1. ADMINISTRATIVE RESPONSE REQUIREMENTS.**

The administrative requirements are set forth in various sections of this RFQ as indicated on Attachment 1 - Administrative Response. Bidder must provide an administrative response to these Sections using Attachment 1 – Administrative Response.

##### **2. TECHNICAL RESPONSE REQUIREMENTS.**

The technical requirements of the resulting Aggregate Agreement are provided in this section. Bidder must agree to these technical requirements using Attachment 2 - Technical Response:

###### **a. How to Use and FAQ.**

OGS will require the Awarded Reseller to assist in modifying the “How to Use” and “FAQ” documents, as needed, during the duration of the resulting Aggregate Agreement. OGS reserves the right to use the answers provided in whole or in part to make updates to the How to Use and FAQ documents.

###### **b. Product Quotes.**

Awarded Reseller must provide quotes for Product within a maximum of two (2) business days after receiving a request for a quote for Product listed on the Aggregate Agreement Price List, and honor all quotes for thirty (30) calendar days, regardless of any price increases.

###### **c. Responsibility to Inform.**

Awarded Reseller must adhere to and provide the following relating to the provision of information to Authorized Users:

It is essential that Authorized Users fully understand the nature of Products being offered or provided under the Enrollment prior to issuing a Purchase Order. Accordingly, the awarded Reseller is required to fully answer any questions an Authorized User may have regarding all Products offered and upon request, must provide a full written description of the Product.

Awarded Reseller shall provide Microsoft-specific available information, as appropriate, to the Authorized User in order to facilitate a determination as to whether an offering complies with the Authorized User's statutory and regulatory requirements and is within the scope of this Aggregate Agreement. This includes, but is not limited to, Microsoft's data protection and privacy protocols and protocols for Authorized User transfer of data at the end of the Enrollment/Affiliate Registration Form term.

Upon request of the Authorized User, awarded Reseller shall provide for all Online Services, a chart of all roles and responsibilities pertaining to security, data ownership, encryption, and data location, including backup.

Awarded Reseller must provide to the Authorized User a copy of the MBT at the time of an executed Enrollment/Affiliate Registration Form.

**d. Authorized User Refunds.**

In the event of termination of service for any reason, awarded Reseller will reimburse Authorized Users for any prepaid amount that has been applied to the portion of the service that has been terminated.

**e. Service Credits for Online Services.**

Awarded Reseller must, on behalf of an Authorized User, facilitate and submit any claims for service credit for Online Services to Microsoft.

Authorized User must provide to awarded Reseller all information necessary for Microsoft to validate the claim, including but not limited to:

- (i) a detailed description of the Incident;
- (ii) information regarding the time and duration of the Downtime;
- (iii) the number and location(s) of affected users (if applicable); and
- (iv) descriptions of the Authorized User's attempts to resolve the Incident at the time of occurrence

In the event Microsoft grants a claim for service credit, the Authorized User will receive that service credit directly from the awarded Reseller.

**f. Report of Aggregate Agreement Sales.**

Reseller shall report sales pursuant to the resulting Aggregate Agreement in accordance with the Sales Reporting requirements outlined in the Manufacturer Umbrella Contract PM69723, Section 2.23 Sales Reporting Requirements. In addition, Reseller shall submit notice of submitting sales reports to the OGS Contract Administrator for the Aggregate Agreement within 5 days of submittal, using Aggregate Agreement Appendix 3, Report of Aggregate Agreement Sales. If requested by OGS, Reseller shall also provide OGS with a report of all sales for any requested time period(s) requested by utilizing the "Appendix 3 - Report of Aggregate Agreement Sales" template.

The additional report, if requested, is to be submitted for the time period(s) requested by the requested due date, electronically in Microsoft Excel format unprotected, via e-mail to the attention of the designated OGS Procurement Services Contract Administrator for the Microsoft Aggregate Agreement. OGS reserves the right to amend the “Appendix 3 - Report of Aggregate Agreement Sales” template or to require sales to be reported in a different format. Further, additional related sales information and/or detailed Authorized User purchases may be required by OGS and must be supplied upon request.

**g. Net Reseller Cost Verification.**

Upon request from OGS, Bidder or awarded Reseller will disclose the price it pays to Microsoft for Products sold under the Aggregate Agreement.

**h. Program Agreements, Enrollments, and Affiliate Registration Forms.**

As part of the MBT between OGS and Microsoft, Custom Program Agreements, Enrollments and Affiliate Registration Forms have been established for use by the Authorized Users of the resulting Aggregate Agreement. Awarded Reseller must utilize these custom forms and documents for transactions under the resulting Aggregate Agreement.

**i. Aggregate Agreement Price List.**

The Aggregate Agreement Price List will be created using the Category Discount and Program Agreement tabs from Attachment 3, Financial Response as may be modified by OGS. ~~The successful Bidder's Financial Response shall be used to create the Aggregate Agreement Price List.~~ The Bidder selected for tentative award will be required to establish a full Aggregate Agreement Price List prior to final award. OGS reserves the right to exclude any of the Products listed on the RFQ submission from the final Aggregate Agreement Price List.

**j. Aggregate Agreement Price List Updates.**

Reseller shall use the final Aggregate Agreement Price List approved by OGS as the price list format. In addition to other fields in the Aggregate Agreement Price List, each item on the Aggregate Agreement Price List must have a unique Contract SKU (unique identifier) in the “Contract SKU” column of the Aggregate Agreement Price List, the most current Microsoft NYS Price for each Contract SKU, and the Aggregate Agreement Price for each Contract SKU. The Microsoft NYS Price is the not-to-exceed price for each Contract SKU. The Aggregate Agreement Price is the net price for each Contract SKU calculated by applying the Reseller’s applicable Category Discount to the Net Reseller Cost set by Microsoft. Reseller may offer more favorable pricing to Authorized Users during a transaction.

Reseller shall update the Aggregate Agreement Price List document on a monthly basis, submitting all required documentation by the 10th of each month, to reflect additions, deletions, or updates to SKUs, and increases or decreases in Microsoft NYS Price and Aggregate Agreement Price. Appendix 2, Aggregate Agreement Modification Procedure must be submitted with all Aggregate Agreement Price List updates.

The Aggregate Agreement Price List shall be updated for each required monthly update and as-needed so that it remains current. OGS reserves the right to request an updated Aggregate Agreement Price List from the Reseller at any time.

**3. FINANCIAL RESPONSE REQUIREMENTS.**

Attachment 3 - Financial Response **must** be used to submit Category Discounts and

Demonstration pricing, or the RFQ submission will be deemed non-responsive and will be disqualified from consideration.

How the Financial Response works:

1. For the Financial Response, Bidder will provide a) Category Discount for each Program Agreement, and b) Applied Category Discount/Demonstration Pricing for each Program Agreement using Attachment 3.
2. The Category Discount for each Program Agreement is the Bidder's price quote for RFQ 24-02. Bidder provides Category Discount using the Category Discount tab in Attachment 3.
3. To demonstrate actual pricing associated with the Category Discount, Bidder provides the Aggregate Agreement price for each Program Agreement by applying the Category Discount for each Program Agreement to Net Reseller Cost for each Product on the Program Agreement tabs in Attachment 3.
4. The Aggregate Agreement prices for each Program Agreement will be summed to create a Program Total for each Program Agreement.
5. The Program Total for each Program Agreement and the sum of all Program Totals will be individually scored based on the Points listed in Section 2. RFQ Scoring.
6. The Category Discount Financial Response Score will be calculated as the sum of all Points in #5 of this Section. The Bidder with the highest Category Discount Financial Response Score, that also meets all other requirements in this RFQ, will be tentatively awarded the RFQ.

To complete Attachment 3, please follow the instructions as listed on the Attachment 3 - Financial Response.

**a. Category Discounts (Cost Minus or Cost Plus Percentage).**

In the Category Discount tab in Attachment 3 - Financial Response, Bidder must quote the Cost Minus or Cost Plus Percentage (Category Discount) that will be applied to the Net Reseller Cost for each Program Agreement. The Category Discount applied to the Net Reseller Cost will be the final (net) Aggregate Agreement Price to the State of New York. Bidder shall not quote multiple Category Discounts within a single Microsoft Program Agreement. **The final Category Discount shall be all-inclusive and shall cover all shipping, handling, insurance, associated delivery charges, and all other costs. No additional charges may be billed to an Authorized User including, but not limited to, processing or other fees for NYS Procurement Card purchases.**

Category Discounts quoted by the Bidder are to be firm for the entire period of the resulting Agreement; however, price decreases, Cost Plus Percentage decreases or Cost Minus increases by the Reseller will be permitted at any time. Cost Minus Percentage reductions or Cost Plus Percentage increases by the Reseller shall not be allowed and are specifically excluded from the terms and conditions of this RFQ and the resulting Agreement.

**b. Applied Category Discounts/Demonstration Pricing, and Program Total.**

In each of the four (4) Program Agreement tabs in Attachment 3 - Financial Response, Bidder must provide a demonstration of actual prices that would apply to the Aggregate Agreement Price List by entering the Aggregate Agreement Price for each Product listed. The Program Agreement tabs contain a portion of the Microsoft NYS Price List as of 3-29-24 and the information entered by Bidders in these tabs will be used to calculate the Program Total that will be used as part of the evaluation of the quotes for Category Discounts. Each Program Agreement tab contains (23) randomly selected Products. OGS reserves the right, at its discretion, to evaluate and score the Financial Response using only a subset of the Products in each Program Agreement tab.

Demonstrated Aggregate Agreement pricing that exceeds the Microsoft NYS Price will be accepted

for the purpose of evaluating RFQ 24-02, however the final approved Aggregate Agreement Pricing for the Aggregate Agreement resulting from this RFQ may not exceed the Microsoft NYS Price List price found in Manufacturer Umbrella Contract PM69723 Appendix E.

Bidder must include all of the following tabs of Attachment 3 - Financial Response and complete all required information with their final submission to meet the requirements of this section:

- Category Discount
- Enterprise Agreement Program Agreement
- Select Plus License Program Agreement (SLG)
- Academic Select Plus Agreement
- Campus and School Agreement

**c. Spend by Program Agreement.**

To assist Bidders with establishing Category Discounts, Chart 1, which lists price level and historic spend information, is being provided for the Program Agreements that are applicable as of the time of Bid.

**Please note: Any Agreement resulting from this RFQ will be an Indefinite Delivery, Indefinite Quantity (IDIQ) award. Please refer to revised Appendix 1, Microsoft Business Terms Section 1.5 Indefinite Delivery/Indefinite Quantity.**

Chart 1 – Program Agreements

Microsoft Program Agreements	Microsoft Price Level	Estimated <del>average-</del> annual total dollar value of sales as reported by the current contractor for calendar year 2018-2023	Estimated Number of current Active Enrollments/ ARFs
1. Enterprise Agreement Program Agreement	Level D	\$989,502,703.17	284
2. Select Plus License Program Agreement (State and Local)	Level D	\$44,048,600.04	561
3. Campus and School Agreement Program Agreement	Level A,B,C,D (varies by organization counts)	\$228,558,936.46	80
4. Academic Select Plus License Program Agreement	Level A	\$5,756,682.88	396

**d. Authorized Reseller Information.**

Bidder must complete and submit the Authorized Reseller Information section at the bottom of this RFQ. OGS reserves the right to request the original hardcopy executed page of this RFQ.

**Q. RFQ SUBMISSION REQUIREMENTS.**

**1. RFQ DELIVERY.**

Bidders must submit their Quotes to the Designated Contact **E-Mail** Address indicated on the Cover Page of this RFQ, with the subject line “*Aggregate Agreement RFQ24-02 - Quote*”. OGS strongly recommends Quotes be emailed with “Request Delivery Receipt” or similar feature enabled.

A Quote must include all of the following completed documents, each separate and clearly labeled:

Attachment 1 – Administrative Response (Excel)

Attachment 2 – Technical Response (Excel)

Attachment 3 – Financial Response (Excel and PDF)

Authorized Reseller Information Page (Last page of this document) (PDF)

## **2. CONFIRMING RFQ DELIVERY.**

Quotes sent to this designated e-mail on or before the Due Date and Time for Quotes will receive a confirmation of receipt from OGS within 1 hour of OGS receipt, provided the quote is sent between 7:30AM – 4:00 PM, Monday – Friday. If the quote is sent outside of those hours, a confirmation of receipt will be sent on the next business day. During the hours/days outlined in the preceding sentence, if Bidder does not receive a confirmation of receipt within 1 hour, Bidder must first verify that the correct email address was entered, then, if necessary, reach out immediately via email to [Allison.White@ogs.ny.gov](mailto:Allison.White@ogs.ny.gov) [Katherine.Dias@ogs.ny.gov](mailto:Katherine.Dias@ogs.ny.gov) to notify OGS. OGS may require evidence of date and time of initial email attempt if the Bidder contacts OGS after the Due Date and Time for Quotes.

Bidders are responsible for the accuracy of their RFQ submissions. Bidders are directed to take extreme care in developing their RFQ submission. Prior to submission, Bidders are cautioned to carefully review their RFQ Submission. Bidder is solely responsible for timely delivery of its RFQ submission prior to the stated deadline for submission.

All RFQ submissions and accompanying documentation shall become the property of the State of New York and shall not be returned.

## **3. RFQ VALIDITY.**

Quotes must remain open and valid for at least 120 calendar days from the due date, unless the time for awarding the Aggregate Agreement is extended by mutual consent of OGS and the Bidder. A Quote shall continue to remain a firm and effective offer for at least a two (2) year period from the RFQ due date, unless Bidder withdraws its Quote subsequent to the 120 calendar day period. Bidders are encouraged to keep their quotes open due to the provisions in in the document Section T.2, Change of Reseller.

## **4. RFQ INQUIRIES.**

Quotes must conform to the terms set forth in the RFQ. If Bidder intends to submit a Quote that deviates from the requirements of the RFQ in any way, the proposed deviations should be submitted during the Questions and Comments period so that they may be given due consideration prior to the submission of Quotes. Material deviations (including additional, inconsistent, conflicting, or alternative terms) submitted with the Quote may render the Quote non-responsive and may result in rejection of the Quote. Bidder is advised that OGS will not entertain any exceptions to Appendix A (Standard Clauses for New York State Contracts). OGS will also not entertain exceptions to the RFQ or Appendix B (General Specifications) that are of a material and substantive nature. Extraneous terms submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Quote or resulting Agreement but shall be deemed included for informational or promotional purposes only.

## **R. METHOD OF AWARD / EVALUATION.**

### **1. METHOD OF AWARD.**

It is the State's intent to award one (1) Aggregate Agreement to the responsive and responsible

Bidder based on best value meeting specified technical requirements and mandatory pass/fail requirements.

For the purposes of this RFQ, best value shall be equated to the RFQ having the highest Final Financial Response Score and satisfying all Administrative and Technical requirements.

**2. RFQ SCORING.**

The Administrative, Technical, and Financial Responses of the RFQ will be evaluated separately based on the scoring below:

<b>FACTOR</b>	<b>WEIGHT</b>
Administrative Response	Pass/ Fail
Technical Response	Pass/ Fail
Financial Response	100%

Total Financial Score is based on best Category Discount determined by scoring Demonstration Pricing Totals with points weighted as follows:

<b>Demonstration Pricing Type</b>	<b>Points</b>
Program Total for Enterprise Program Agreement	60 points
Program Total for Select Plus Agreement	10 points
Program Total for Campus and School Agreement	20 points
Program Total for Academic Select Plus Agreement	5 points
Sum of all Program Totals	5 points

**3. EVALUATION PROCESS.**

The evaluation is a three-stage process set forth below:

**STAGE 1 ADMINISTRATIVE EVALUATION**

The submitted Attachment 1 - Administrative Response, will be reviewed for completeness and conformance with requirements of this RFQ. Administrative Response will be scored based on a Pass/Fail criteria. Submissions that do not meet the Administrative Response requirements as set forth in this RFQ may be deemed nonresponsive and given no further consideration. In the alternative, OGS reserves the right to require the Bidder to submit any missing or incomplete Administrative Response information as a condition of award.

**STAGE 2 TECHNICAL EVALUATION**

Submitted Attachment 2 - Technical Response will be evaluated for completeness and conformance with requirements for this RFQ. Technical Response will be scored based on a Pass/Fail criteria. Bids that do not meet the Technical Response requirements as set forth in this RFQ may be deemed nonresponsive and given no further consideration. In the alternative, OGS reserves the right to require the Bidder to submit any missing or incomplete Technical Response information as a condition of award.

## STAGE 3 FINANCIAL EVALUATION

Only Bidders who have passed both the Administrative and Technical review will proceed to Stage 3 Financial Evaluation. The Financial Response evaluation will be evaluated separately from the Technical and Administrative Evaluations. The Financial Response evaluation will be based on the Bidder's completed Attachment 3 - Financial Response. Each Financial Response will be reviewed for responsiveness to the Attachment 3 - Financial Response requirements set forth in this RFQ and Attachment 3 - Financial Response. All requested fields of Attachment 3 - Financial Response are Mandatory. If a Financial Response is found to be materially non-responsive, the Quote will not receive a Financial Response score and the Bidder will be disqualified from consideration for this RFQ. Each responsive Quote that meets the Financial Response requirements will receive a Financial Response score.

### 4. FINANCIAL RESPONSE SCORING.

Financial Responses from a Bidder must be presented as directed in Attachment 3 - Financial Response to enable the evaluation of costs according to the State's prescribed formula.

The Final Financial Response Score will be calculated as follows:

Category Discount Financial Response Score = Sum of [Max Points \* (Lowest Demonstration Pricing Type / Demonstration Pricing Type being evaluated) ]

### 5. RFQ RANKING AND SELECTION.

The one (1) responsive and responsible Quote having the highest Final Financial Response Score and satisfying all Administrative, and Technical RFQ requirements will be selected for a tentative Aggregate Agreement award.

In the case of tied Quotes, please see Appendix B, Clause 23 entitled "Tie Bids."

### 6. NOTIFICATION OF AWARD.

Tentative award of the Aggregate Agreement shall consist of written notice to that effect by OGS to the successful Bidder, who shall thereupon be obligated to execute a formal Aggregate Agreement. RFQ Tentative awards may include requests for tentative awardee to provide information to satisfy outstanding requirements for award. If any such information is not returned to OGS within the timeframe specified, or is not acceptable to OGS, OGS reserves the right to withdraw the tentative award and proceed to the eligible Bidder with the next highest Final Financial Response Score.

Non-awardees will also be notified that their Quotes were not selected for Award.

## S. OGS RESERVED RIGHTS.

**New York State reserves the right to:**

1. Reject any or all Quotes received in response to the RFQ;
2. Withdraw the RFQ at any time, at OGS's sole discretion;
3. Make an award under the RFQ in whole or in part;
4. Disqualify any Bidder whose conduct and/or RFQ fails to conform to the requirements of this RFQ;
5. Seek clarifications and revisions of Quotes;
6. Prior to the RFQ opening, amend the RFQ specifications to correct errors or oversights, or to supply additional information, as it becomes available;
7. Prior to the RFQ opening, direct Bidders to submit RFQ modifications addressing subsequent RFQ amendments;
8. Change any of the schedule dates with notification through e-mail;

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 this RFQ within the RFQ requirements to serve the best interests of the State. This includes requesting 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 RFQ Quote and/or to determine a Bidder's compliance with the requirements of the RFQ;
14. Select and award the Aggregate Agreement to other than the initially selected Bidder in the event of unsuccessful negotiations or, optionally, in other specified circumstances as detailed in the RFQ requirements;
15. Upon discovery of non-material completeness or conformance issues with a Bidder's Quote, contact the Bidder to attempt to cure the issue prior to completion of the evaluation of the Bidder's Quote.
16. Unilaterally make non-material revisions, changes and/or updates to any templates, Appendices (excluding Appendices A and B) and/or Attachments to the resulting Agreement without processing a formal amendment and/or modification.

## **T. MODIFICATIONS TO AGGREGATE AGREEMENT.**

### **1. AGGREGATE AGREEMENT MODIFICATIONS.**

- a. All modifications proposed by Awarded Reseller shall be processed in accordance with Appendix 2, Aggregate Agreement Modification Procedure. The Awarded Reseller shall submit all requests in the form and format contained in Appendix 2, Aggregate Agreement Modification Procedure. OGS reserves the right to make non-material revisions to Appendix 2, Aggregate Agreement Modification Procedure during the Aggregate Agreement term, without seeking a formal Aggregate Agreement amendment. OGS will notify awarded Reseller of any such revisions, and such revisions shall then be deemed incorporated in this Aggregate Agreement as of the date of notification.
- b. During the term of the Aggregate Agreement, price increases and decreases shall be processed in accordance with Appendix 2, Aggregate Agreement Modification Procedure. Aggregate Agreement prices will increase or decrease by the Awarded Reseller applying the applicable Program Agreement Cost Minus or Cost Plus Percentage to the new Net Reseller Cost. Net Reseller Cost changes must be reflected in any Aggregate Agreement Price List updates. Any change in pricing may only take effect upon OGS approval and notice to Reseller, even if it is not immediately posted to the OGS website. Awarded Reseller may submit a request to decrease prices on the Aggregate Agreement Price List at any time during the Aggregate Agreement term. For individual transactions, Awarded Reseller may offer more favorable prices than those listed on the Aggregate Agreement Price List at any time. Cost Minus Percentage increases, Cost Plus Percentage decreases, or price decreases by the Awarded Reseller will be permitted at any time. Cost Minus Percentage decreases or Cost Plus Percentage increases by the Awarded Reseller shall not be allowed and are specifically excluded from the terms and conditions of this Aggregate Agreement.

### **2. CHANGE OF RESELLER.**

In the event that a new Reseller is required, OGS reserves the right to then make a new Aggregate Agreement Award to the RFQ 24-02 Bidder with the next highest Final Financial Response Score that is willing to accept an Aggregate Agreement award without issuing a new RFQ. The new

Aggregate Agreement awardee will be required to maintain the Cost Minus or Cost Plus Percentage, included in the Bidder's original Bid submission, which will then be applied to the then current Net Reseller Cost to determine the new Aggregate Agreement Pricing. Under no circumstances will the Bidder with the next highest Final Financial Response Score be permitted to decrease the Cost Minus or increase the Cost Plus Percentages included with its initial Bid submission.

#### **U. INVOICING.**

All invoices shall at a minimum, include the items listed below and any additional information identified in the Authorized User Purchase Order and any resulting Authorized User Agreement:

- Manufacturer Umbrella Contract Number: PM69723
- RFQ Number: 24-02
- RFQ Title: Microsoft Aggregate Agreement 24-02
- Reseller Name
- NYS Vendor ID
- Manufacturer Part Number (SKU)
- Product Name
- Product Description
- Quantity
- Aggregate Buy Price for each Product SKU
- Specific designation of special price(s) which may be better than the Agreement price
- Invoice Total

# Authorized Reseller Information

**This Page is to be Completed By the Authorized Reseller Responding to the RFQ**

*The RFQ Response must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this RFQ (including any Questions/Answers or addenda), the OGS Centralized Contract and that all information provided is complete, true and accurate. Quotes received by RFQ due date/time are binding and non-retractable for 120 days or as stipulated in the RFQ.*

<b>Contract #</b>	<b>Manufacturer Name</b>	<b>Authorized Reseller Name</b>
PM69723	Microsoft Corporation	

<i>Reseller Signature:</i>	<i>Date:</i>	<i>Phone Number:</i>
		<i>E-Mail:</i>

<i>Printed or Typed Name:</i>	<i>Title:</i>
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*If you are not providing a RFQ Response: place an "x" in the box, please clarify why you are not responding, and return this page only.*

WE ARE UNABLE TO RESPOND AT THIS TIME BECAUSE: