

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

## PURCHASING MEMORANDUM

### GENERAL INFORMATION BULLETIN

**NUMBER:** CL-595

**DATE:** August 23, 2004

**GROUP:** Software Licensing for Hardware and  
Software Contracts

**PLEASE ADDRESS INQUIRIES TO:**

**STATE AGENCIES**

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**SUBJECT: IMPORTANT NOTICE - SOFTWARE LICENSES**

**TO ALL STATE AGENCIES AND OTHERS AUTHORIZED TO USE STATE CONTRACTS:**

OGS customers should note that virtually all of the OGS contracts for networking hardware and software, systems and peripherals, and other technology contracts include software (either developed by the hardware manufacturer holding the contract or third party software sold under that hardware contract). The software license for these software products is "shrink wrap" terms and conditions only. OGS has not negotiated license agreements for this software. Customers looking to acquire software under these contracts should ask if there is a license agreement and if so, have their agency counsel negotiate the license agreement prior to ordering the software.

A copy of the software template that OGS uses for statewide software contract negotiations is available on the OGS web site under "Bid Creation Documents" at <http://www.ogs.state.ny.us/purchase/bidcreation.asp>.

If customization is required, there should also be an upfront determination of the pricing and whether it can be done under the existing contract. Customization that exceeds 20% of the cost of the software and maintenance should be acquired under the OGS IT Services contracts.

If you have any questions concerning this notice, please do not hesitate to contact the Procurement Services Group as noted above.