

Office of General Services
New York State Procurement (NYSPRO)
Corning Tower Building, 38th Floor
Empire State Plaza
Albany, New York 12242
<http://nyspro.ogs.ny.gov>

PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #4

IFB NUMBER: 22782

DATE: September 17, 2014

GROUP: 05600 - GASOLINE & E-85
(STATEWIDE)

**PLEASE ADDRESS INQUIRIES TO
DESIGNATED CONTACTS:**

Christopher M. Martinez
Contract Management Specialist
christopher.martinez@ogs.ny.gov

BID OPENING: September 24, 2014

James Jasiewicz
Acting Team Leader
james.jasiewicz@ogs.ny.gov

SUBJECT: UPDATED PRICE REVISIONS CLAUSE

TO PROSPECTIVE BIDDERS:

Please be advised that effective September 15, 2014 the Oil Price Information Service (OPIS) has discontinued publishing price information for conventional unleaded gasoline the "N.Y. Harbor Barge Weekly Average" index. As a result of this change, once the contract is awarded, price updates will be calculated using the "Linden Weekly Average" index for regular gasoline, mid-grade gasoline, and premium gasoline. OGS NYSPRO has confirmed with OPIS that the "Linden Weekly Average" index is a continuation of the "NY Harbor Barge Weekly Average" index; therefore it has been selected as the index for price revisions. The index for RBOB and Pre RBOB is unchanged.

With the incorporation of the new index, the PRICE REVISIONS clause of the above referenced IFB has been updated. The amended clause is as follows:

7.23 Price Revisions

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

Revisions to the original contract price shall be based on prices published in the OIL PRICE INFORMATION SERVICE (OPIS) under the heading In Cash Markets, weekly average Spot report under "Linden Weekly Average" for all types of conventional unleaded gasoline, "N.Y. Harbor Spot Barge Weekly Average" for RBOB and Pre RBOB, and Ethanol Spot Market Prices (New York) for ethanol.

The weekly average of the daily high and low prices shown in the publication for each of the three conventional unleaded gasoline fuel types, RBOB, PreRBOB and Ethanol will be used to compute price revisions during the contract period. NYSPRO will compute any price revisions by determining the difference between the weekly average of the daily high and

low prices (base prices) for the “N.Y. Harbor Spot Barge Weekly Average” published on August 18, 2014 and the weekly average of the daily high and low prices for both the “Linden Weekly Average” (for conventional unleaded gasoline) and “N.Y. Harbor Spot Barge Weekly Average” (for RBOB and Pre RBOB) published on Monday every week during the contract period beginning with the publication on December 22, 2014 or the publication immediately following the start date of the contract, whichever occurs first. This differential (adjustment) + or - will be added to the base bid prices. Applicable price changes will be effective as of the start of business on the Friday immediately preceding the day of publication. Generally, the weekly average published in OPIS represents a 5-day average of high and low prices; however, as holidays occur which would eliminate a given daily range of prices, the weekly average may represent less than a 5-day average. Regardless of the number of days represented in the weekly average, the published weekly average will be utilized as the basis for price revisions. Final price shall be calculated by applying the above stated price revision to the base bid price.

The State reserves the right to change to a daily, bi-weekly or monthly schedule in price revisions if the market conditions so warrant.

Should postings differ from current description and/or format, a posting determined by the Commissioner of the Office of General Services in his sole discretion, to be most reflective of market conditions, will be used.

Corrections to posted prices previously published will be considered when caused by a typographical or clerical error on the part of said publisher.

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

- (1) Price increases are limited to changes in pre-selected postings as noted above. Increases in contract costs or prices to compensate for other increases in the cost of doing business, regardless of where such cost increases are attributable, will not be allowed during the contract period.
- (2) Should the price structure utilized by the parties become unworkable, detrimental or injurious to the State or result in prices which are not truly reflective of current market conditions and are deemed unreasonable or excessive by the Commissioner and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon 10 days written notice mailed to the contractor to terminate any contract resulting from this bid opening. If the contractor is unable or unwilling to meet contractual requirements in whole or in part it shall immediately notify the State of such in order that the State may take appropriate action. Such notification shall be in writing and shall be addressed to the Office of General Services, NYSPRO.
- (3) The federal government has determined that gasoline sold in certain counties: Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Westchester [in the New York City Consolidated Metropolitan Statistical Area (CMSA)], and Dutchess County as an "opt-in," are subject to regulations mandating the use of OPRG(E) gasoline year round. Recognizing that pricing differentials occur on a regular basis, the State will incorporate the following methodology in the determination of the weekly price revision.

**EXAMPLE: METHODOLOGY FOR RBOB AND ETHANOL ADJUSTMENTS
(OPRG(E) UNLEADED FUEL TYPES)**

Posted Date: August 18, 2014

$$\begin{aligned} \text{RBOB} \times .90 + \text{Ethanol} \times .10 &= \text{Blended Average} \\ (2.7620 \times .90) + (2.2650 \times .10) &= \text{Blended Average} \\ 2.4858 + .2265 &= 2.7123 \end{aligned}$$

Posted Date: (Hypothetical) December 22, 2014
 RBOB x .90 + Ethanol x .10 = Blended Average
 (2.7820 x .90) + (2.9063 x .10) = Blended Average
 2.9650 + .2906 = 3.2556

ADJUSTMENT CALCULATION

December 22, 2014 Blended Average ± August 4, 2014 Base Blended Average =
 Adjustment
 3.2556 – 2.7123 = +.5433*

*This figure being a positive number will be added to the base bid price. If the figure is a negative number it would be subtracted from the base bid price. For the OGS web based posted pricing this adjustment will be added or subtracted to the base bid price.

NOTE: All figures are truncated to four (4) decimal places in dollars.

EXAMPLE: METHODOLOGY FOR E-85 ADJUSTMENTS

Posted Date: August 18, 2014
 RBOB x .15 + Ethanol x .85 = Blended Average
 (2.7620 x .15) + (2.2650 x .85) = Blended Average
 .4143 + 1.9252 = 2.3395

Posted Date: (Hypothetical) December 22, 2014
 RBOB x .15 + Ethanol x .85 = Blended Average
 (3.2944 x .15) + (2.9063 x .85) = Blended Average
 .4942 + 2.4704 = 2.9646

ADJUSTMENT CALCULATION

December 22, 2014 Blended Average ± August 18, 2014 Base Blended Average =
 Adjustment
 2.9646 – 2.3425 = +.6221*

*This figure being a positive number will be added to the base bid price. If the figure is a negative number it would be subtracted from the base bid price. For the OGS web based posted pricing this adjustment will be added or subtracted to the base bid price.

NOTE: All figures are truncated to four (4) decimal places in dollars.

(4) Bidders shall designate in their bid an individual, the individual’s position in the company and telephone number, who will be responsible for and authorized to act on behalf of the company with respect to these price adjustments.

This memorandum must be signed and returned to this office in order to be considered for award. All bids received will be with the understanding that they are in accordance with this memorandum. Bids already mailed may be amended prior to the bid opening deadline only.

COMPANY BUSINESS NAME: _____

BIDDER NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

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PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #3

IFB NUMBER: 22782

DATE: September 12, 2014

GROUP: 05600 - GASOLINE & E-85
(STATEWIDE)

**PLEASE ADDRESS INQUIRIES TO
DESIGNATED CONTACTS:**

Christopher M. Martinez
Contract Management Specialist
christopher.martinez@ogs.ny.gov

BID OPENING: September 24, 2014

James Jasiewicz
Acting Team Leader
james.jasiewicz@ogs.ny.gov

SUBJECT: RESPONSES TO SECOND ROUND OF INQUIRIES

TO PROSPECTIVE BIDDERS:

The Office of General Services (OGS), New York Procurement (NYSPRO) has given careful consideration to the inquiries received in regards to Bid No. 22782 for Gasoline & E-85 during the inquiry period that ended close of business, September 11, 2014. Only one inquiry was received during this period and it is as follows:

Question – Attachment 1 – Price Pages:

In a previous response you indicated that all products must be bid in a County and an award would be made based on the total dollars bid for the County. In previous bids there were products not awarded due to there being no bid for a specific product in a specific County. In St. Lawrence for example there were no bids for E85. Do we still bid the products that we can supply and if there are no bids for all the products in the County, will the award be based on the products bid or will there be a re-bid for that specific County omitting the products that were not bid by any supplier?

Answer:

Please refer to number 23 within section 4.1 New York State Procurement Rights. OGS NYSPRO encourages Bidders to bid all items within a county; however OGS reserves the right to make a partial award for specific items only if no complete bids are received in a county.

Answers to all inquiries, the bid document and all attachments can be accessed through the following link:

<http://www.ogs.ny.gov/purchase/biddocument/22782BID.ASP>

This memorandum must be signed and returned to this office to be included with your bid submission. All bids received will be with the understanding that they are in accordance with this memorandum. Bids already mailed may be amended prior to the bid opening deadline only. **ONLY** this Memorandum may be faxed in at (518) 486-6867. The original bid may not be faxed.

COMPANY BUSINESS NAME: _____

BIDDER NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

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PURCHASING MEMORANDUM

BID SOLICITATION UPDATE #2

IFB NUMBER: 22782

DATE: September 5, 2014

GROUP: 05600 - GASOLINE & E-85
(STATEWIDE)

**PLEASE ADDRESS INQUIRIES TO
DESIGNATED CONTACTS:**

Christopher M. Martinez
Contract Management Specialist
christopher.martinez@ogs.ny.gov

NEW BID OPENING: September 24, 2014

James Jasiewicz
Team Leader
james.jasiewicz@ogs.ny.gov

SUBJECT: REOPENING OF INQUIRY PERIOD AND POSTPONEMENT OF BID OPENING

TO PROSPECTIVE BIDDERS:

Due to the IFB announcement not being distributed through the Bidder Notification Service upon its initial release the Office of General Services (OGS) New York Procurement (NYSPRO) has decided to postpone the bid opening date for the above referenced IFB and reopen the period for submission of inquiries related to the IFB. The new schedule of key events and dates is as follows:

<u>Event</u>	<u>Date</u>	<u>Time</u>
IFB Release	8/20/2014	
Closing Date for Inquiries	9/11/2014	
OGS Responses to Bidder Inquiries (estimated)	9/15/2014	
Submission of Bids Due/Bid Opening	9/24/2014	11:00 A.M ET

This memorandum must be signed and returned to this office in order to be considered for award. All bids received will be with the understanding that they are in accordance with this memorandum.

Bids already mailed may be amended prior to the bid opening deadline only.

COMPANY BUSINESS NAME: _____

BIDDER NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

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PURCHASING MEMORANDUM

BID SOLICITATION UPDATE

IFB NUMBER: 22782

DATE: September 4, 2014

GROUP: 05600 - GASOLINE & E-85
(STATEWIDE)

**PLEASE ADDRESS INQUIRIES TO
DESIGNATED CONTACTS:**

Christopher M. Martinez
Contract Management Specialist
christopher.martinez@ogs.ny.gov

BID OPENING: September 11, 2014

James Jasiewicz
Team Leader
james.jasiewicz@ogs.ny.gov

SUBJECT: AMENDMENTS TO IFB AND RESPONSES TO INQUIRIES

TO PROSPECTIVE BIDDERS:

The Office of General Services (OGS), New York Procurement (NYSPRO) has given careful consideration to the inquiries received in regards to Bid No. 22782 for Gasoline & E-85 during the inquiry period that ended close of business, August 26, 2014. Answers to all inquiries and all revised attachments can be accessed through the following link:

<http://www.ogs.ny.gov/purchase/biddocument/22782BID.ASP>

As a result of the inquiries received, the following clauses and attachments from the IFB have been revised:

IFB 22782:

7.5 Contract Term and Extension

7.5.1 Contract Term

The Contract term shall be from the date of all necessary approvals until September 18, 2015. The Contract(s) resulting from this IFB shall commence after all necessary approvals and shall become effective upon mailing of the final executed Contracts by OGS (see Appendix B, §26 *Contract Creation/Execution*).

7.5.2 Contract Extension

If mutually agreed upon between OGS and the Contractor, the Contract may be extended under the same terms and conditions for up to three (3) additional one (1) year periods.

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

7.23 Price Revisions

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

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The weekly average of the daily high and low prices shown in the publication for each of the three conventional unleaded gasoline fuel types, RBOB, PreRBOB and Ethanol will be used to compute price revisions during the contract period. NYSPRO will compute any price revisions by determining the difference between the weekly average of the daily high and low prices (base prices) published on August 18, 2014 and the weekly average of the daily high and low prices published on Monday every week during the contract period beginning with the publication on December 22, 2014 or the publication immediately following the start date of the contract, whichever occurs first. This differential (adjustment) + or - will be added to the base bid prices. Applicable price changes will be effective as of the start of business on the Friday immediately preceding the day of publication. Generally, the weekly average published in OPIS represents a 5-day average of high and low prices; however, as holidays occur which would eliminate a given daily range of prices, the weekly average may represent less than a 5-day average. Regardless of the number of days represented in the weekly average, the published weekly average will be utilized as the basis for price revisions. Final price shall be calculated by applying the above stated price revision to the base bid price.

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adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon 10 days written notice mailed to the contractor to terminate any contract resulting from this bid opening. If the contractor is unable or unwilling to meet contractual requirements in whole or in part it shall immediately notify the State of such in order that the State may take appropriate action. Such notification shall be in writing and shall be addressed to the Office of General Services, NYSPRO.

- (3) The federal government has determined that gasoline sold in certain counties: Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Westchester [in the New York City Consolidated Metropolitan Statistical Area (CMSA)], and Dutchess County as an "opt-in," are subject to regulations mandating the use of OPRG(E) gasoline year round. Recognizing that pricing differentials occur on a regular basis, the State will incorporate the following methodology in the determination of the weekly price revision.

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(OPRG(E) UNLEADED FUEL TYPES)**

Posted Date: August 18, 2014

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Posted Date: (Hypothetical) December 22, 2014

$$\begin{aligned} \text{RBOB} \times .90 + \text{Ethanol} \times .10 &= \text{Blended Average} \\ (2.7820 \times .90) + (2.9063 \times .10) &= \text{Blended Average} \\ 2.9650 + .2906 &= 3.2556 \end{aligned}$$

ADJUSTMENT CALCULATION

$$\begin{aligned} \text{December 22, 2014 Blended Average} \pm \text{August 4, 2014 Base Blended Average} &= \\ \text{Adjustment} & \\ 3.2556 - 2.7123 &= +.5433* \end{aligned}$$

*This figure being a positive number will be added to the base bid price. If the figure is a negative number it would be subtracted from the base bid price. For the OGS web based posted pricing this adjustment will be added or subtracted to the base bid price.

NOTE: All figures are truncated to four (4) decimal places in dollars.

EXAMPLE: METHODOLOGY FOR E-85 ADJUSTMENTS

Posted Date: August 18, 2014

$$\begin{aligned} \text{RBOB} \times .15 + \text{Ethanol} \times .85 &= \text{Blended Average} \\ (2.7620 \times .15) + (2.2650 \times .85) &= \text{Blended Average} \\ .4143 + 1.9252 &= 2.3395 \end{aligned}$$

Posted Date: (Hypothetical) December 22, 2014

$$\begin{aligned} \text{RBOB} \times .15 + \text{Ethanol} \times .85 &= \text{Blended Average} \\ (3.2944 \times .15) + (2.9063 \times .85) &= \text{Blended Average} \\ .4942 + 2.4704 &= 2.9646 \end{aligned}$$

ADJUSTMENT CALCULATION

$$\begin{aligned}
 &\text{December 22, 2014 Blended Average} \pm \text{August 18, 2014 Base Blended Average} = \\
 &\quad \text{Adjustment} \\
 &2.9646 - 2.3425 = +.6221*
 \end{aligned}$$

*This figure being a positive number will be added to the base bid price. If the figure is a negative number it would be subtracted from the base bid price. For the OGS web based posted pricing this adjustment will be added or subtracted to the base bid price.

NOTE: All figures are truncated to four (4) decimal places in dollars.

(4) Bidders shall designate in their bid an individual, the individual’s position in the company and telephone number, who will be responsible for and authorized to act on behalf of the company with respect to these price adjustments.

ATTACHMENT 1 – PRICE PAGES:

In addition to publishing answers to the inquiries, OGS has made revisions to Attachment 1 – Price Pages, which is being released simultaneously with the answers to the inquiries.

ANY BID SUBMISSION THAT DOES NOT INCLUDE “ATTACHMENT 1 – PRICE PAGES (REVISED 9.3.14)” MAY BE DEEMED NON-RESPONSIVE AND DISQUALIFIED

ATTACHMENT 8 – DELIVERY SHCEDULE – STATE AGENCIES AND ATTACHMENT 9 – DELIVERY SHCEDULE – LOCALS AND POLITICAL SUBDIVISIONS:

Both of the above mentioned attachments have been revised to reflect amended quantities and new delivery sites that have been added to the contract since the bid was initially issued. All bid prices will be based on the quantities listed in Attachment 8 – Delivery Schedule – State Agencies (Revised 9.3.14) and Attachment 9 – Delivery Schedule – Locals and Political Subdivisions (Revised 9.3.14).

This memorandum must be signed and returned to this office in order to be considered for an award. All bids received will be with the understanding that they are in accordance with this memorandum. Bids already mailed may be amended prior to the bid opening deadline only. **ONLY** this Memorandum may be faxed in at (518) 486-6867. The original bid may not be faxed.

COMPANY BUSINESS NAME: _____

BIDDER NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____