



Bid Solicitation Information

Subject: Continuous Recruitment Award 22904

DATE: January 30, 2019

IFB/RFP: 22904

BID OPENING DATE | TIME:

Any time prior to November 13, 2019, 5:00 PM ET

GROUP | TITLE: 40500 | Vehicles, Class 3-8 (Statewide)

OGS DESIGNATED CONTACTS:

Carol Neelis	CMS 1	518-474-3695	NYSPro.VehicleMarketPlace@ogs.ny.gov
Ronald Brown	CMS 2	518-474-7648	NYSPro.VehicleMarketPlace@ogs.ny.gov

1. TO PROSPECTIVE CONTRACTORS:

The Office of General Services (OGS) continues recruitment for new centralized contracts for the acquisition (purchase) of new Vehicles, (including Chassis, Bodies, Complete Vehicles, and associated Options and Aftermarket Components), as specified in Contract Scope. The contracts are for Class 3 through 8 Vehicles (i.e., 10,001 lbs. GVWR & Over). Additional bids to become a Contractor will be accepted through November 13, 2019 at 5:00 PM ET, or until a new solicitation for Class 3-8 Vehicles is posted, whichever occurs first.

- A. The resultant contracts shall be Backdrop Contracts, as defined in Appendix B, §2 *Definitions*, Paragraph f *Contract*, for the OEM Product Line(s) available from the Dealer(s), and at the NYS Minimum Chassis Discount(s), if applicable, set forth in Appendix C: *Class 3-8 Vehicles Contract Documents*, Number 1: *Contractor Information*;
- B. Vehicle acquisition from the contracts shall be on an as-needed basis by NYS Authorized Users via a competitive Mini-Bid process utilizing the Vehicle Marketplace website established by OGS (see Contract Template Section II.11 *Procurement Method*). The Vehicle Marketplace is located on the OGS website at <http://vehicles.nyspro.ogs.ny.gov>. The Contractors shall only provide a Vehicle under the Contracts when it has been awarded under the Mini-Bid process;
- C. The Vehicles shall be new, (i.e., the equitable or legal title to which has never been transferred by a manufacturer, distributor or Dealer to an ultimate purchaser). "Demos" or "used" Vehicles shall not be sold in response to a Mini-Bid. An Authorized User may request a Chassis only, Body only, or a Complete Vehicle. A Chassis only request may include specifications of a Body that will be supplied by the Authorized User for use with, or for installation by the Contractor, to form a Complete Vehicle. A Body only request may include specifications of a Chassis that will be supplied by the Authorized User for use with, or for installation by the Contractor, to form a Complete Vehicle;
- D. Heavy Construction Equipment, School Buses and Transit Buses, as defined in the Contract Template, Section I.1 *Scope*, are excluded from the Contract. Leasing is not permitted under this Contract.

- E. In order to be eligible for contract award, a Bidder must submit all required bid documents in accordance with Section 9 *Bid Submission Information*. The bid documents are available on the OGS website at <http://nyspro.ogs.ny.gov/content/finding-bid-opportunities>. Further information about Contract Scope, Solicitation Inquiries, Requirements for Contract Eligibility, and Bid Information and Requirements are included in this memo. A Contract Template containing the contract terms and conditions is also provided on the OGS website at <http://nyspro.ogs.ny.gov/content/finding-bid-opportunities>.

2. CONTRACT PERIOD AND RENEWALS

The contract period for the Class 3-8 Vehicle Contracts began on February 8, 2016, the date of approval by OGS of the of the first contract under Award Number 22904. All Class 3-8 Vehicle Contracts shall begin when OGS signs the contract and shall terminate simultaneously on November 13, 2019 at 5:00 PM ET or until a new solicitation for Class 3-8 Vehicles is posted, whichever occurs first.

2.1 SHORT TERM EXTENSION

In the event a replacement Contract has not been issued, the Contracts may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

3. CONTRACT SCOPE:

The resultant Contracts shall be for Class 3 through 8 Vehicles (i.e., Class 3 (10,001 to 14,000 lbs GVWR.), Class 4 (14,001 to 16,000 lbs. GVWR), Class 5 (16,001 to 19,500 lbs. GVWR), Class 6 (19,501 to 26,000 lbs. GVWR), Class 7 (26,001 to 33,000 lbs. GVWR), and Class 8 (33,001 lbs. GVWR & Over). "Class" shall refer to a Vehicle classification, as designated by the U.S. Department of Transportation, which is determined based on the Chassis or Complete Vehicle's GVWR. "Vehicles" includes the following:

- A. **Chassis (Class 3-8)**. "Chassis" shall mean the portion of a Vehicle that includes the frame, wheels, and machinery (e.g., engine, transmission, driveshaft, differential, and suspension), and is an incomplete Vehicle that requires the addition of a Body to perform its intended functions. Chassis includes Chassis cabs, Cutaway Chassis, and any other Chassis-only incomplete Vehicle.
- B. **Bodies**. "Bodies" shall refer to the portion of the Vehicle that carries the load or cargo, and may be attached to a Chassis. (e.g., aerial lift, ambulance, beverage, box/van, bus, concrete mixer, dump, flat bed, log, pickup, recyclable/refuse, refrigerator, service/utility, stake, sweeper, tank, tow truck, trailer), and is an incomplete Vehicle that requires the addition of a Chassis to perform its intended functions
- C. **Complete Vehicles** "Complete Vehicle" shall mean the Product that is the result of the Chassis and Body being joined together to form a Vehicle that is ready for use and requires no further manufacturing operations to perform its intended function.
- D. **Options**. "Options" shall refer to an accessory, equipment, or feature that is available from the OEM and that can be added to, or deleted from, a Chassis or Body.
- E. **Aftermarket Components**. "Aftermarket Components" shall mean any accessory, equipment, or feature that is manufactured by an OEM other than the Chassis or Body OEM, and is not included in the OEM Product Line, and that may be installed on the Chassis or Body by the Contractor, or third-party.

4. ESTIMATED QUANTITIES

The resulting Contract(s) are Indefinite Delivery, Indefinite Quantity (IDIQ) Contracts. The Contractor(s) must furnish all quantities actually ordered. The individual value of each Contract is indeterminate. See Appendix B §29 *Estimated/Specific Quantity Contracts* and §27 *Participation in Centralized Contracts*.

Numerous factors could cause the actual volume of Product purchased under the Contract to vary substantially. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period;
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In OGS' experience, depending on the price of a particular Product, the actual volume of purchases for that Product could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contract could vary substantially from the estimates provided in this solicitation.

5. METHOD OF AWARD OF CONTRACT

Awards shall be made to the responsive and responsible Bidder(s) who meet the minimum requirements listed in Section 10 *Requirements for Contract Eligibility*, below. 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, awards shall be made to more than one Bidder.

A Bidder responding to this solicitation is advised that each bid will undergo an initial administrative review for completeness. In order for a bid to be evaluated, it must include all required documents for a complete bid (see Section 11.2 *Bid Format and Content*). Upon completion of the administrative review, OGS will request any missing documentation from the Bidder, and will review all documents for completeness upon receipt of the missing documents. All required documents for a complete bid must be submitted and be completed to the satisfaction of OGS in order for the bid to be deemed responsive and eligible for Contract award.

Vendors may submit the required documents at any time prior to May 18, 2018 at 5:00. Such submissions will be reviewed in the order in which they were received.

6. SOLICITATION INQUIRIES / DESIGNATED CONTACTS

All inquiries concerning this solicitation shall be addressed to the following OGS Designated Contact(s):

<p>Primary Contact: Carol Neelis, Contract Management Specialist 1 Telephone No. (518) 474-3695 E-mail: NYSPro.VehicleMarketPlace@ogs.ny.gov</p>	<p>Secondary Contact: Ronald Brown, Contract Management Specialist 2 Telephone No. (518) 474-7648 E-mail: NYSPro.VehicleMarketPlace@ogs.ny.gov</p>
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You must register with the New York State Contract Reporter at <https://www.nyscr.ny.gov> in order to receive notifications about this solicitation. Navigate to the "I want to find contracts to Bid on" page to register for your free account.

7. 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 an Offerer/Bidder during the procurement process. An Offerer/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 solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/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-year period the Offerer/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/defaultSFL_139j-k.asp.

8. REQUIREMENTS FOR CONTRACT ELIGIBILITY:

This contract area is open to **DEALERS** (i.e., a distribution source for an OEM, authorized and designated by said OEM, subject to approval by New York State, which may include the OEM or an alternate entity) of Chassis, Bodies and/or Complete Vehicles, that meet the following minimum qualifications:

- A. Are registered with the NYS Department of State as an entity authorized to conduct business in New York State (registration may be confirmed at http://www.dos.ny.gov/corps/bus_entity_search.html), or if not incorporated in New York State, can provide a Certificate of Good Standing from the applicable state where the business was formed or incorporated;
- B. Offer at least one complete or partial Chassis or Body manufacturer's Product Line, and be a Dealer of that Product Line. Upon request by OGS, the Bidder shall provide proof of Dealer status in a format that is acceptable to OGS;
- C. If offering a Chassis Product Line, a NYS Minimum Chassis Discount (i.e., a minimum percentage amount, of at least one (1) percent, by which the Chassis Base MSRP shall be reduced for NYS Contract purchases) must be provided for each Model included in the Product Line;
- D. Agree to, and are able to meet, the terms and conditions set forth in the Contract (see Contract Template); and
- E. Provide proof of insurance coverage requirements, as described in Contract Template, Appendix C: *Class 3-8 Vehicles Contract Documents, Number 3: Insurance Requirements*, in accordance with Section 11.2 *Bid Format and Content*, and throughout the Contract term, as requested by OGS.

9. BID SUBMISSION INFORMATION

This Section, (i.e., 9.1 through 9.6), sets forth bid submittal information and instructions for this solicitation.

9.1 IMPORTANT NOTICE TO POTENTIAL BIDDERS

A Bidder should take note of the following:

- A. Receipt of these bid documents does not indicate that OGS has pre-determined your company's qualifications to receive a contract award. Such determination will be made after the bid opening

and will be based on evaluation of bid submissions compared to the specific requirements and qualifications contained in these bid documents.

- B. To be considered responsive, a Bidder must submit a bid that satisfies and addresses all requirements stated in this solicitation.
- C. The Commissioner of OGS will receive bids pursuant to the provisions of Article XI of the State Finance Law. All bids and accompanying documentation shall become the property of the State of New York and shall not be returned.
- D. If a Bidder wishes to make more than one bid, such bid(s) are to be submitted separately and are to be listed as "alternate" bids. "Alternate" bids must satisfy and address all requirements stated in this solicitation, and will be evaluated as separate bids.
- E. Portions of the successful Bidder's bid shall be incorporated into a final Contract, executed by the Contractor and OGS. Therefore, the bid must be signed by a partner, corporate officer, or other person authorized to commit its firm to all provisions of this solicitation and its bid as submitted. Once the Contract resulting from this solicitation is executed and approved, it will be posted on the OGS website.

9.2 BID FORMAT AND CONTENT

This section sets forth bid format and content information for this solicitation.

- A. The complete bid for the Contract consists of the following documents. All required documents for a complete bid must be submitted in the manner and format set forth below (i.e., **paper** or **electronic**) and be completed to the satisfaction of OGS in order for the bid to be deemed responsive and eligible for Contract award. Unless otherwise specified, only one (1) of each document is required for a complete bid submission. Multiple copies are not required.

Note: A Contract Template is posted with the solicitation documents on the OGS website at <http://nyspro.ogs.ny.gov/content/finding-bid-opportunities>. Do not submit the Contract Template with your bid. The Contract Template is intended 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 this Bid Solicitation Information memo 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.

- 1. Standard Vendor Responsibility Questionnaire (SVRQ). See Section 18 *New York State Vendor Responsibility Questionnaire for Profit Business Entity*.
 - a. Online **electronic** completion of the SVRQ on the OSC website, with a Certification Date no more than six (6) months prior to the bid opening date,
 - OR
 - b. A **paper** version of the SVRQ, completed and with original ink signature and notarized no more than six (6) months prior to the bid opening date.

Forms are available on the OSC website at http://www.osc.state.ny.us/vendrep/vendor_index.htm. Click on "Accessing the VendRep System" to complete the SVRQ online, or "Forms for Vendor Use" to complete the paper version;

- 2. NY State Taxation and Finance forms ST-220-CA and ST-220-TD. A **paper** version of form ST-220-CA, completed and with original ink signature, and notarized. *Note: Form ST-220-TD, completed and with original ink signature, and notarized, must be submitted directly to the NYS*

- Tax Department (see Section 17 Tax Law §5-A).* Forms are available on the Tax Department website here: https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf and https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf
3. Form EEO-100. A **paper** version of form EEO-100 (Equal Employment Opportunity Staffing Plan), completed and with original ink signature (See Section 19 *Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Member and Women*). The form is available on the OGS website here: <http://www.ogs.ny.gov/MWBE/Docs/EEO100.docx>;
 4. Proof of Insurance (General, Automobile and/or Garage Liability). A **paper or electronic** version of proof of compliance with general, automobile and/or garage liability insurance requirements, as specified in Contract Template, Appendix C: *Class 3-8 Vehicles Contract Documents*, Number 3: *Insurance Requirements*. Please review the documents prior to submittal to ensure that the documents conform to all requirements set forth in Appendix C: *Class 3-8 Vehicles Contract Documents*, Number 3: *Insurance Requirements*, including:
 - a) ACORD Certificate of Liability Insurance that includes:
 - 1) The full legal company name of the Bidder in the "Insured" box;
 - 2) The company name and NAIC number of the insurer(s) affording coverage;
 - 3) Policy expiration dates that are current; and
 - 4) The New York State Office of General Services, Procurement Services, 38th Floor, Corning Tower, Albany, New York 12242 listed as the Certificate Holder.
 - b) Additional required endorsements applicable to all insurance:
 - 1) "The People of the State of New York, the New York State Office of General Services, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees " named as additional insured (a separate endorsement); and
 - 2) A waiver of subrogation granted in favor of the additional insureds
 5. Proof of Insurance (Workers' Comp). A **paper or electronic** version of proof of compliance (e.g., NYS form C-105-2 or U-26.3) with NYS Workers Compensation insurance requirements, as specified in Contract Template Appendix C: *Class 3-8 Vehicles Contract Documents*, Number 3: *Insurance Requirements*. Instructions on how to obtain the forms are available on the Workers' Compensation Board website at <http://www.wcb.ny.gov/content/onlineforms/obtainC105.jsp> and http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp;
 6. Proof of Insurance (Disability). A **paper or electronic** version of proof of compliance (e.g. NYS form DB-120.1) with NYS Disability insurance requirements, as specified in Contract Template Appendix C: *Class 3-8 Vehicles Contract Documents*, Number 3: *Insurance Requirements*. Instructions on how to obtain the forms are available on the Workers' Compensation Board website at <http://www.wcb.ny.gov/content/onlineforms/obtainDB120-1.jsp> and http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp;
 7. Attachment 1: Bid Documents (Paper). A **paper** version of each section in Attachment 1: *Bid Documents (Paper)*, completed and with original ink signature, where applicable. This attachment includes the three (3) sections listed below.
 - a) Section A: *Cover Sheet and Acknowledgements*, completed and with original ink signature, and notarized;
 - b) Section B: *New York State Required Certifications*, completed and with original ink signature; and

- c) Section C: *Encouraging Use of New York State Businesses*, completed, and with a list of NYS Businesses to be used in the performance of this Contract, if applicable;
8. Attachment 2: Bid Documents (Electronic). An **electronic** version of Attachment 2: *Bid Documents (Electronic)*, completed. This attachment includes the four (4) sections listed below. **Note: Do not submit a PDF version of this document. Do not split the individual tabs contained in this attachment into a separate Excel document for each section;**
- a) Section A: *Bid Submittal Checklist*;
- b) Section B: *General Questions*;
- c) Section C: *Vehicles Offered*; and
- d) Section D: *Chassis Discounts*.
- B. Bidder is required to submit any document listed above in Paragraph A that is not submitted with the initial bid submission upon OGS' written request for such document(s). Failure to submit a document upon OGS' written request for such document(s) will delay award of the resultant Contract, and may render the bid non-responsive and result in the disqualification of the bid. See Section 6 *Method of Award of Contract*.
- C. Each bid shall include the **paper** and **electronic** documents specified above in Paragraph A.
1. **Paper** documents shall include original signatures and notary, where applicable. Documents should be submitted bound in a binder or by some other method (e.g., through the use of a three-hole report cover). Spiral binding is not desired by the State.
2. **Electronic** media files shall be submitted via email to NYSPro.VehicleMarketPlace@ogs.ny.gov. Each email should reference the business name of the Bidder and solicitation number 22904 in the email subject line;
- D. In the case of discrepancies between the paper and the electronic media submission the electronic media submission shall take precedence over the paper submission; and
- E. Bidder is responsible for ensuring that the most recently updated version of all required documents has been submitted. Any updated versions released after the initial bid release date will be posted at <http://nyspro.ogs.ny.gov/content/finding-bid-opportunities> and through the New York State Contract Reporter site. A Bidder that submits an outdated version of a bid document will be required to resubmit the document using the most recent version.

9.3 BID DEVIATIONS

If your bid differs from the specifications explain such deviation(s) or qualification(s); and if necessary, attach a separate sheet. See Appendix B §6 *Extraneous Terms*.

9.4 BID DELIVERY

Bidders assume all risks for timely, properly submitted deliveries. Bids for the backdrop Contracts for award 22904 will be reviewed in the order in which they are received.

Bid Envelopes and Packages

An envelope and/or package containing a bid shall be clearly marked "**BID ENCLOSED**" and must state **Bid Number 22904**, and **Continuous Recruitment**. A Bidder who elects to hand-deliver its proposal must contact Procurement Services at NYSPro.VehicleMarketPlace@ogs.ny.gov to arrange for building access. Bids shall be delivered to:

Carol Neelis
NYS Office of General Services – Procurement Services
38th Floor Corning Tower
Empire State Plaza
Albany, NY 12242

FAX Transmittals

Facsimile transmittals are NOT acceptable for this solicitation.

10. NOTIFICATION OF AWARD

The successful Bidder(s) shall be advised by OGS in accordance with Appendix B §24 *Contract Creation/Execution*. OGS also distributes email notification to registered Authorized Users announcing the resultant contract award(s). The email 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 25 and 46. 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. See Appendix B §31 *Purchase Orders*.

11. DEBRIEFING

Unsuccessful Bidders shall be notified. 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. The debriefing prior to Contract award should be requested in writing within thirty (30) calendar days of notification that the bid or proposal was disqualified from further consideration or the Bidder was a non-awardee.

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 calendar days of posting of the Contract award on the OGS website.

12. EXTENSION OF USE

Any Contract resulting from this solicitation may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

12.1 EXTENSION OF USE COMMITMENT

The Contractor agrees to honor all orders from State Agencies, political subdivisions and others authorized by law (see Section 12 *Extension of Use*) which are in compliance with the pricing, terms, and conditions set forth in the resulting Contract document.

Any unilateral limitations/restrictions imposed by the Contractor on eligible Authorized Users will be grounds for rejection of the Bid or cancellation of the Contract.

13. OVERLAPPING CONTRACT ITEMS

Vehicles available in the resultant Contracts under Award 22904 may also be available from other New York State Awards. Authorized Users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

14. PERFORMANCE AND BID BONDS

There are no bonds required for the Contract resulting from this solicitation. In accordance with Appendix B §44 *Performance/Bid Bond*, the Commissioner of OGS has determined that no performance, payment or Bid bond, or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract shall be required at any time during the initial term, or any renewal term, for the resulting Contract.

15. NEW YORK STATE VENDOR FILE REGISTRATION

Prior to being awarded a contract pursuant to this solicitation, the Bidder(s) and any designated authorized resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (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 Vendor IDs will be assigned to 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 Bidder is already registered in the Vendor File, Bidder must enter its ten-digit Vendor ID on the first page of the solicitation. Authorized resellers already registered should list the ten-digit Vendor ID along with authorized reseller information.

If the Bidder is not currently registered in the Vendor File, 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/ac3237s_fe.pdf) and submit the form to OGS in advance of your Bid. Please send this document to the 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/ac3237s_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 email 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/.

16. NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY

- A. OGS conducts a review of prospective contractors ("Bidders") to provide reasonable assurances that the Bidder is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter "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, in addition to all other information the State may obtain from other sources, 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.

B. 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 of OGS 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.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate 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 Commissioner of OGS 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.

17. TAX LAW §5-A

Section 5-a of the Tax Law requires certain contractors awarded State Contracts for commodities, services and technology valued at more than \$100,000 to certify to the NYS 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 is 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.

A Contractor is required to file the completed and notarized Form ST-220-CA with OGS certifying that the Contractor 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 and submitted to the procuring covered Agency certifying that the Contractor filed the ST-220-TD with DTF. Contractor 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 Contractor non-responsive and non-responsible. Contractor 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.

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 at: <http://www.tax.ny.gov/>.

18. NEW YORK STATE REQUIRED CERTIFICATIONS

A Bidder is required to submit the signed New York State Required Certifications (Attachment 1: *Administrative Submittal (Paper)*, Section B: *New York State Required Certifications*). Failure to submit this document may result in a Bid being considered non-responsive and may result in a bid being rejected.

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

A. Policy Statement

The New York State Office of General Services ("OGS"), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation 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" (the "Disparity Study"). The Disparity Study 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 establish 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.

II. General Provisions

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State certified minority- and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, State or local laws.
- C. The Contractor further agrees to be bound by the provisions of Article 15-A and the MWBE Regulations. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- D. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility, breach of contract, withholding of funds, suspension or termination of the Contract and/or such other actions or enforcement proceedings as allowed by the Contract.

III. Equal Employment Opportunity (EEO)

- A. Contractor shall comply with the provisions of Article 15-A set forth below. These provisions apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000, for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.
 - 1. Contractor and Subcontractors shall undertake or continue existing EEO 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, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or 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. This requirement does not apply to: (i) the performance of work, or the provision of services or any other activity that is unrelated, separate or distinct from the Contract; or (ii) employment outside New York State.
 - 2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor’s equal employment opportunity policy.
- B. Form EEO 100 – Staffing Plan
To ensure compliance with this section, the Contractor agrees to submit or has submitted with the Bid a staffing plan on Form EEO 100 to OGS to document the composition of the proposed

workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.

- C. Form EEO - 101 - Workforce Utilization Reporting Form (Commodities and Services) ("Form EEO-101-Commodities and Services")
1. The Contractor shall submit, and shall require each of its subcontractors to submit, a Form EEO-101-Commodities and Services to OGS to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Form EEO-101-Commodities and Services must be submitted electronically to OGS at EEO_CentCon@ogs.ny.gov on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.
 2. Separate forms shall be completed by Contractor and any subcontractor.
 3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.
- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall 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 and conviction and prior arrest.

IV. Contract Goals

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers and suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.
- B. Good Faith Efforts
- Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:
- (1) A list of the general circulation, trade and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers and copies of such solicitations and any responses thereto.
 - (2) A list of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of

the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.

- (3) Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.
- (4) A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
- (5) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
- (6) Other information deemed relevant to the request.

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

20. NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS

New York State political subdivisions and others authorized by New York State law may participate in centralized contracts. These include, but are not limited to local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B §26 *Participation in Centralized Contracts*.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS Procurement Services Customer Services at 518-474-6717.

21. NEW YORK STATE PROCUREMENT RIGHTS

New York State hereby reserves the right to:

- A. Reject any or all bids received in response to this solicitation;
- B. Withdraw the solicitation at any time, at the Agency's sole discretion;
- C. Make an award under the solicitation in whole or in part;
- D. Disqualify any Bidder whose conduct and/or bid fails to conform to the requirements of the solicitation;
- E. Seek clarifications and revisions of bids;
- F. Prior to the Bid opening, amend the solicitation specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- G. Prior to the Bid opening, direct Bidders to submit solicitation modifications addressing subsequent solicitation amendments;
- H. Change any of the schedule dates with notification through the NYS Contract Reporter;
- I. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders;
- J. Waive any requirements that are not material;
- K. Utilize any and all ideas submitted in the bids received;
- L. Negotiate with the Bidder responding to this solicitation within the solicitation requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bidders' bids;

- M. 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;
- N. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of ninety (90) calendar days from the Bid opening;
- O. Use bid information obtained through site visits, management interviews, and the state's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to OGS's request for clarifying information in the course of evaluation and/or selection under the solicitation;
- P. OGS reserves the right to use an on-line process, such as reverse auction, to make acquisitions under the resulting contracts. Bidder agrees that if awarded a Contract, it will participate in the on-line process established by OGS;
- Q. The State reserves the right to exclude from award any Chassis, Body or Complete Vehicle Make or Model that, at the sole discretion of the State, will not be approved for purchase by an Authorized User; and
- R. All bids shall become the property of OGS and shall not be returned.

22. CONFLICT OF TERMS AND CONDITIONS.

Conflicts among the documents in the Solicitation shall be resolved in the following order of precedence:

- A. Appendix A, *Standard Clauses for New York State Contracts*;
- B. The Bid Solicitation Information Document;
- C. The Contract Template;
- D. Appendix B (May 2015), *General Specifications*; and
- E. Other Appendices and attachments.