**State of New York Executive Department**
**Office of General Services – Procurement Services**
**Corning Tower - 38thFloor**
**Empire State Plaza**
**Albany, NY 12242**

# INVITATION FOR BIDS

**IMPORTANT: SEE "NOTICE TO BIDDERS" CLAUSES HEREIN**
**BIDS MAY BE SENT TO THE ABOVE ADDRESS ONLY**
**(E-Mail or Facsimile Bid Submissions Are NOT Acceptable)**

| | |
|---|---|
| **BID OPENING**<br>**DATE**: **March ~~24~~26, 2015**<br>**TIME**: 11:00 AM ET | **TITLE**: **Group 40590 – TRUCKS, HEAVY DUTY (Class 8 Chassis Cab Type with Various Bodies)**<br>Classification Codes: 22 and 25 |
| **INVITATION FOR BIDS NUMBER:**<br>**22910** | **SPECIFICATION REFERENCE:**<br>As Incorporated in the Invitation For Bids |
| **CONTRACT PERIOD:** Three (3) years, plus up to two (2) one (1) year renewal options | |
| **DESIGNATED CONTACTS:** | |
| PRIMARY CONTACT: Peter Green<br>E-mail address: **SSTIndustrial@ogs.ny.gov** | SECONDARY CONTACT: Wendy Reitzel<br>E-mail address: **SSTIndustrial@ogs.ny.gov** |

The bid 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 INVITATION FOR BIDS, Appendix A (Standard Clauses For New York State Contracts), Appendix B (OGS General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, bidder affirms that it understands and agrees to comply with the OGS procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).** Information may be accessed at:
Procurement Lobbying: http://www.ogs.ny.gov/aboutOgs/regulations/defaultSFL_139j-k.asp

| | | | |
|---|---|---|---|
| **Bidder's Federal Tax Identification Number:**<br>*(Do Not Use Social Security Number)* | | **NYS Vendor Identification Number:**<br>*(See "New York State Vendor File Registration" clause)* | |
| If applicable, place an "**x**" in the appropriate box (***check all that apply***): | ☐Small Business _____ #Employees | ☐Minority Owned Business | ☐Women Owned Business |
| Legal Business Name of Company Bidding: | | | |
| D/B/A - Doing Business As (if applicable): | | | |
| Street | City | State | Zip | County |
| If applicable, place an "**x**" in the appropriate box (***check all that apply***): | ☐ Manufactured Within New York State | ☐ Manufactured Outside New York State | |
| If you are not bidding, place an "x" in the box and return this page only.<br>☐ WE ARE UNABLE TO BID AT THIS TIME BECAUSE_____. | | | |
| Bidder's Signature:<br>Title: | | Printed or Typed Name:<br>Date: | |
| Phone : ( ) - ext ( )<br>Fax : ( ) - ext ( ) | | Toll Free Phone : ( ) - ext ( )<br>Toll Free Fax : ( ) - ext ( ) | |
| **Contact E-mail Address for this IFB:** | | | |
| **P.R. #** 22910-T LIT ☐ MEMO ☐ LET ☐ OTHER☐ MISSING PAGES | | | |

**INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT**

**STATE OF** }
: **Sworn Statement:**
**COUNTY OF** }

On the _____ day of _____ in the year 20_____ , before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that _he maintains an office at

Town of_____

County of _____, State of_____; and further that:

**[Check One]**

(☐ **If an individual):** _he executed the foregoing instrument in his/her name and on his/her own behalf.

(☐ **If a corporation):** _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

(☐ **If a partnership):** _he is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

(☐ **If a limited liability company):** _he is a duly authorized member of _____ _____, LLC, the limited liability company described in said instrument; that, _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

_____

Signature of Notary Public

# TABLE OF CONTENTS

**SECTION I: INTRODUCTION AND GENERAL INFORMATION ..... 6**

I.1 OVERVIEW ..... 6
I.2 SCOPE ..... 6
I.3 KEY EVENTS/DATES ..... 7
I.4 INQUIRIES / DESIGNATED CONTACTS ..... 8
I.5 PRE-BID CONFERENCE ..... 8
I.6 INTENT TO BID ..... 8
I.7 QUALIFICATION OF BIDDER ..... 9
I.8 ESTIMATED QUANTITIES ..... 10
I.9 DEFINITIONS ..... 10

**SECTION II: GENERAL TERMS AND CONDITIONS ..... 15**

II.1 APPENDIX A ..... 15
II.2 APPENDIX B ..... 15
II.3 APPENDIX B MODIFICATIONS ..... 15
II.4 CONFLICT OF TERMS ..... 15
II.5 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING ..... 16~~15~~
II.6 MERCURY ADDED CONSUMER PRODUCTS ..... 16~~15~~
II.7 ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NO. 4 ..... 16
II.8 NEW YORK STATE VENDOR FILE REGISTRATION ..... 16
II.9 NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY ..... 17~~16~~
II.10 TAX LAW §5-A ..... 18~~17~~
II.11 NEW YORK STATE REQUIRED CERTIFICATIONS ..... 18
II.12 USE OF RECYCLED OR REMANUFACTURED MATERIALS ..... 18
II.13 PURCHASE ORDERS AND INVOICING ..... 19~~18~~
II.14 CONTRACT PAYMENTS ..... 19
II.15 "OGS OR LESS" GUIDELINES APPLY ..... 20~~19~~
II.16 NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS ..... 20~~19~~
II.17 EXTENSION OF USE ..... 20
II.18 EXTENSION OF USE COMMITMENT ..... 20
II.19 CONTRACT PERIOD AND RENEWALS ..... 20
II.20 POOR PERFORMANCE ..... 21~~20~~
II.21 CONTRACT ADVERTISING ..... 21~~20~~
II.22 OVERLAPPING CONTRACT ITEMS ..... 21
II.23 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES ..... 21
II.24 REPORT OF CONTRACT USAGE ..... 23
II.25 JOINT VENTURE OR PARTNERSHIP BIDS ..... 23
II.26 CENTRALIZED CONTRACT MODIFICATIONS ..... 23

II.27 PERFORMANCE AND BID BONDS ..... 24
II.28 WEB ACCESSABILITY ..... 24
II.29 NEW YORK STATE STATEWIDE FINANCIAL SYSTEM ..... 24
II.30 ADDITIONAL REQUIREMENTS ..... 25~~24~~
II.31 DISPUTE RESOLUTION PROCEDURES ..... 25~~24~~
**SECTION III: SPECIAL TERMS & CONDITIONS ..... 28~~27~~**
III.1 PRICE ..... 28~~27~~
III.2 PRODUCT REQUIREMENTS ..... 33
III.3 PRE-PRODUCTION MEETING ..... 38~~37~~
III.4 PILOT MODEL INSPECTION ..... 38
III.5 DELIVERY ..... 38
III.6 GENERAL WARRANTY REQUIREMENTS ..... 43~~42~~
III.7 POST-DELIVERY SERVICE ..... 43
III.8 TRAINING ..... 44~~43~~
III.9 REPLACEMENT ITEMS ..... 44~~43~~
III.10 SERVICE/TECHNICAL BULLETINS AND RECALLS ..... 44~~43~~
III.12 INTERNET ACCESS TO CONTRACT AND PRICING INFORMATION ..... 44
III.13 CONTRACT CANCELLATION ..... 44
III.14 PROCUREMENT INSTRUCTIONS ..... 44
**SECTION IV: METHOD OF AWARD ..... 45**
IV.1 AWARD OVERVIEW ..... 45
IV.2 TOTAL BASE ITEM EVALUATION PRICE CALCULATION ..... 46
IV.3 EVALUATION TOTAL FOR ITEM CALCULATION ..... 49~~48~~
IV.4 GRAND TOTAL FOR LOT CALCULATION ..... 51~~49~~
IV.5 COST PROPOSAL REVISION ..... 51~~50~~
**SECTION V: BID SUBMITTAL ..... 52~~51~~**
V.1 IMPORTANT NOTICE TO POTENTIAL BIDDERS ..... 52~~51~~
V.2 BID FORMAT AND CONTENT ..... 53~~52~~
V.3 BID DEVIATIONS ..... 55~~54~~
V.4 BID DELIVERY ..... 55~~54~~
V.5 IMPORTANT BUILDING ACCESS PROCEDURES ..... 56~~55~~
V.6 DISPUTE RESOLUTION POLICY ..... 56~~55~~
V.7 ELECTRONIC BID OPENING RESULTS ..... 56~~55~~
V.8 NOTIFICATION OF AWARD ..... 56~~55~~
V.9 DEBRIEFING ..... 57~~55~~
V.10 NEW YORK STATE PROCUREMENT RIGHTS ..... 57~~55~~

## APPENDICES

APPENDIX A – *Standard Clauses for New York State Contracts (January 2014)*

APPENDIX B – *General Specifications (July 2014)*

## ATTACHMENTS

ATTACHMENT 1: *Specifications and Price Pages*

ATTACHMENT 2: *Bid Documents (Electronic)*

A. *Bid Submittal Checklist*

B. *General Questions*

ATTACHMENT 3: *Bid Documents (Paper)*

*A. New York State Required Certifications*

*B. Encouraging Use of New York State Businesses*

*C. Manufacturer's Certificate*

ATTACHMENT 4: *Insurance Requirements*

ATTACHMENT 5: *Inquiries Form*

ATTACHMENT 6: *Report of Contract Usage*

ATTACHMENT 7: *Contract Modification Procedure*

# SECTION I: INTRODUCTION AND GENERAL INFORMATION

## I.1 OVERVIEW

This Invitation for Bids (IFB) is issued by the New York State (NYS) Office of General Services (OGS), Procurement Services. This IFB does not constitute an offer. OGS may, at its sole discretion, award a Contract as a result of this solicitation. The commodity Contracts awarded as a result of this IFB for Trucks, Heavy Duty (Class 8 Chassis Cab Type with Various Bodies), will be one or two centralized Contracts for each Lot, as specified below in Table 1. The centralized contract awarded as a result of this solicitation is for use by Authorized Users, which includes, but is not limited to, New York State agencies, political subdivisions, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Section II.16 *Non-State Agencies Participation in Centralized Contracts*.

All bid pricing shall be the final published pricing on the currently available OEM Pricelist or Bidder-Published Pricelist, as applicable. Bidder shall state the OEM Pricelist, or Bidder-Published Pricelist, name and effective date for each Item bid on Attachment 1: *Specifications and Price Pages*. A bid for an Item that uses pricing other than final published pricing, such as “draft” pricing, shall be deemed non-responsive and shall result in the rejection of the bid for that Item.

This IFB contains a total of nine (9) Lots, which are specified in Table 1 below in Section 1.2 *Scope*, and described in further detail in Attachment 1: *Specifications and Price Pages.* A Bidder is <u>not</u> required to bid on every Lot; A Bidder may bid on as few or as many Lots as desired. A Bidder that submits a bid for any Lot(s) is required to bid on all Items within the applicable Lot(s) bid.

Awards will be made in accordance with Section IV *Method of Award*. Multiple bidders may receive awards. In the event that a Bidder receives multiple awards under this IFB, a single Contract will be executed covering all awards.

References to the State and its Agencies or Non-State Agencies as Authorized Users under this solicitation and the ensuing Contract(s) encompass and include all such entities within the definition of “Authorized User” set forth in State Finance Law §163(1)(k).

This IFB outlines the terms and conditions, and all applicable information required for submitting a bid. A Bidder should pay strict attention to the bid submission date and time to prevent disqualification. To ensure compliance with bid requirements and prevent possible disqualification, a Bidder must follow the format and instructions in Section V.2 *Bid Format and Content*. A Bidder should note that this IFB is different in nature from historical OGS Truck IFBs and contracts. Bidders are strongly encouraged to read the language of this IFB thoroughly and to precisely follow the instructions included in the IFB and all Attachments.

## I.2 SCOPE

The purpose of this IFB and the resultant Contracts is to provide Authorized Users with a means of acquiring Heavy Duty Chassis Cab Trucks (Class 8), Truck Bodies, Plows and associated Options. It is anticipated that Authorized Users may order Product from the Chassis Cab Truck Contractors (Lots I, II and III) and Truck Bodies Contractors (Lots IV, V and VI) in order to form an Upfitted Truck. DOT and Thruway Upfitted Trucks (Lots VII, VIII and IX) are not for the exclusive use of those agencies, and may be purchased by any Authorized User. Upfitted Truck functions may include plowing, salting and sanding highways, supporting paving operations, stockpiling materials and all general road construction and maintenance programs. This IFB contains a total of nine (9) Lots, which are specified in Table 1 below and described in further detail in Attachment 1: *Specifications and Price Pages.*

The resultant award is to cover the outright purchase of new Chassis Cab Trucks, Truck Bodies and Upfitted Trucks. Leasing of a Contract Item is not permitted under this IFB or resultant Contract. A 'new' product is one that will be used first by the Authorized User after it is manufactured or produced. Under no circumstances may "demos" or "used" Chassis Cab or Truck Bodies be sold under the Contract(s) resulting from this IFB.

Table 1: List of Lots and Number of Awardees

| Lot | Lot Description | Number of Awardees |
|---|---|---|
| I | Chassis Cab (Class 8, 37,000 lb. GVWR) | Two Statewide (one Primary Contractor and one Secondary Contractor; each Contractor representing a different OEM) |
| II | Chassis Cab (Class 8, 47,000 lb. GVWR) | Two Statewide (one Primary Contractor and one Secondary Contractor; each Contractor representing a different OEM) |
| III | Chassis Cab (Class 8, 66,000 lb. GVWR) | Two Statewide (one Primary Contractor and one Secondary Contractor; each Contractor representing a different OEM) |
| IV | Truck Bodies (Single Axle Dump Body and Plow) | Two Statewide (one Primary Contractor and one Secondary Contractor; each Contractor representing a different OEM) |
| V | Truck Bodies (Tandem Axle Dump Body and Plow) | Two Statewide (one Primary Contractor and one Secondary Contractor; each Contractor representing a different OEM) |
| VI | Truck Bodies (ELP Interchangeable Body Systems) | One Statewide |
| VII | DOT Upfitted Trucks (Class 8, 47,000 & 66,000 lb. GVWR, with Dump Body and Plow) | One Statewide |
| VIII | Thruway Upfitted Truck (Class 8, 37,000 GVWR, with Dump Body and Plow) | One Statewide |
| IX | Thruway Upfitted Truck (Class 8, 66,000 lb. GVWR, with ELP Dump Body and Plow) | One Statewide |

## I.3 KEY EVENTS/DATES

| **EVENT** | **DATE** | **TIME** |
|---|---|---|
| IFB release | February 13, 2015 | |
| Closing date for vendor inquiries | February 27, 2015 | 5:00 PM ET |
| Pre-bid conference registration due | February 27, 2015 | 5:00 PM ET |
| Discretionary pre-bid Conference | March 5, 2015 | 10:00 AM ET |
| Closing Date for post pre-bid conference vendor inquiries | March 9, 2015 | 5:00 PM ET |
| OGS responses to vendor inquiries (estimated) | March 12, 2015 | 5:00 PM ET |
| Discretionary intent to bid deadline | March 17, 2015 | 5:00 PM ET |
| Submission of bid and bid opening | March ~~24~~26, 2015 | 11:00 AM ET |
| Tentative awardee notification (estimated) | May 6, 2015 | |
| Contract term begin (estimated) | June 10, 2015 | |

## I.4 INQUIRIES / DESIGNATED CONTACTS

All inquiries concerning this IFB will be addressed to the following Procurement Services Designated Contact(s):

| PRIMARY CONTACT | SECONDARY CONTACT |
|---|---|
| Peter Green | Wendy Reitzel |
| NYS Office of General Services | NYS Office of General Services |
| Procurement Services | Procurement Services |
| Corning Tower - 37th Floor | Corning Tower - 37th Floor |
| Empire State Plaza | Empire State Plaza |
| Albany, New York 12242 | Albany, New York 12242 |
| E-Mail: SSTIndustrial@ogs.ny.gov | E-Mail: SSTIndustrial@ogs.ny.gov |

All questions must be submitted in writing using Attachment 5: *Inquiries Form*, citing the applicable IFB document name and document section. The completed Attachment 5: *Inquiries Form* must be emailed to SSTIndustrial@ogs.ny.gov by the "Closing Date for Vendor Inquiries" indicated in Section I.3 *Key Events/Date*s for consideration prior to the pre-Bid conference. A vendor may also submit additional questions by the "Closing Date for post pre-Bid conference vendor inquiries" indicated in Section I.3 *Key Events/Date*s. A Bidder is strongly encouraged to submit questions at the earliest convenience. OGS reserves the right to also consider questions and requests for changes received after the official question and answer period has ended.

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. Answers to all questions of a substantive nature will be provided to all registered vendors in the form of a question and answer document which will be posted and released through the New York State Contract Reporter site.

## I.5 PRE-BID CONFERENCE

Attendance at the pre-bid conference is not mandatory but it is **strongly recommended** that all Bidders attend the pre-bid conference. A Bidder must register for the pre-bid conference by sending an email to this effect to SSTIndustrial@ogs.ny.gov on or before the "Pre-bid conference registration due" date indicated in Section I.3 *Key Events/Dates*. The email should indicate the Bidder's legal business name, which Lot(s) the Bidder intends to bid, and the name and title of pre-bid conference attendees. With respect to attendance of the pre-bid conference at the Empire State Plaza each interested Bidder is limited to three (3) representatives.

The pre-bid conference will be held at the time and date indicated in Section I.3 *Key Events/Date*s. Vendors may attend in person at Empire State Plaza, Albany, New York, or via conference call. The room location and conference call number will be provided to registered vendors prior to the conference.

The purpose of the pre-bid conference is to review bid submittal procedures and to discuss vendor questions related to the IFB. Questions will be permitted and may be answered verbally at the pre-bid conference. However, answers may be deferred and included in the written OGS response to vendor inquiries, which will include answers to all submitted questions, and be posted on the OGS website in accordance with Section I.4 *Inquiries / Designated Contacts*. A vendor may submit additional questions by the "Closing Date for post pre-bid conference vendor inquiries" indicated in Section I.3 *Key Events/Date*s. Only those answers provided in writing are effective and binding.

## I.6 INTENT TO BID

A Bidder is requested to indicate its intent to bid by emailing a letter to this effect to SSTIndustrial@ogs.ny.gov on or before the "Discretionary intent to bid deadline" indicated in Section I.3 *Key Events/Dates*, indicating the Bidder's legal business name and which Lot(s) the Bidder intends to bid. Note that the Intent to Bid is discretionary, not mandatory, and as such is not binding in any way. However, it is highly recommended.

## I.7 QUALIFICATION OF BIDDER

A Bidder is advised that the State's intent in having the requirements listed below is to ensure that only qualified and reliable Contractors perform the work of the resulting Contract. A Bidder shall have the burden of demonstrating to Procurement Services' satisfaction that it can in fact perform the work required. Procurement Services retains the right to request any additional information pertaining to the Bidder's ability, qualifications, and procedures used to accomplish all work under the resulting Contract as it deems necessary to ensure safe and satisfactory work.

### I.7.1 BIDDER TYPE AND OEM CERTIFICATION

Bids will be accepted only from an OEM or their authorized Dealers. Any Dealer submitting a bid hereby certifies that it is an authorized Dealer of the manufacturer of the relevant Product, that the manufacturer has agreed to supply the Dealer with all quantities of Product required by the Dealer in fulfillment of its obligations under any resultant Contract with the State, and that it will provide a certificate from the manufacturer acknowledging this level of support (See Attachment 3: *Bid Documents (Paper),* Section C: *Manufacturer's Certificate*);

Bid consideration will be given only to OEMs and authorized Dealers on Product that can be serviced within New York State.

### I.7.2 FINANCIAL STABILITY

If requested, Bidder must document its ability to service a contract with sales volume similar to the scope of this bid. In addition to sales history, current financial statements may be requested and must be provided within five (5) business days of the request. The State reserves the right to request additional documentation from the Bidder and to request reports on financial stability from independent financial rating services which must be provided within five (5) business days of the request. Failure to provide the information within the specified time period may deem the bid non-responsive and may result in the rejection of the bid. The Bidder must be financially stable and able to substantiate the financial statements of its company. The State reserves the right to reject any Bidder who does not demonstrate financial stability sufficient for the scope of this bid.

### I.7.3 INSURANCE

A Bidder must provide proof of insurance coverage requirements as described in Attachment 4: *Insurance Requirements,* with their bid, or upon tentative award. If awarded a Contract, Contractor must provide proof of current insurance, certifications, licensing, etc. throughout the Contract term if requested by Procurement Services.

### I.7.4 OTHER QUALIFICATIONS

OGS reserves the right to request any additional information regarding a Bidder's abilities, qualifications and procedures as it deems necessary to ensure safe and satisfactory work under a Contract. This includes but is not limited to the following:

A. Satisfactory evidence that a Bidder has maintained an organization capable of performing the work specified herein in continuous operation for at least the past three (3) years through submission of a Dun & Bradstreet Business Information Report or other equivalent evidence;

B. Evidence of a business establishment with adequate inventories of the Product offered, and capacity to process and ship the volume of orders required by Authorized Users on a statewide basis. OGS may require a certificate from the Bidder showing the number of years the Bidder has been active in selling the Product offered and the size and location of the inventories regularly maintained;

C. References that demonstrate the ability of the Bidder to perform jobs similar in scope to the size, nature and complexity of the applicable Lot(s);

D. Documentation to demonstrate a Bidder's ability to meet the delivery requirements set forth in Section III.5 *Delivery*; and

E. OGS reserves the right to investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant Contract.

## I.8 ESTIMATED QUANTITIES

This Contract is an Indefinite Delivery, Indefinite Quantity (IDIQ) Contract. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of all contracts awarded under this solicitation, based on historical and anticipated needs, is approximately $17,000,000.00 annually. The individual value of each Contract is indeterminate. Evaluation quantities in Attachment 1: *Specifications and Price Pages* are the State's best estimate on future purchases based upon historical and anticipated future needs. The quantities are for evaluation purposes and are not guaranteed purchases under the contract.

See Appendix B §30 *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 the 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 Procurement Services' 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.

## I.9 DEFINITIONS

Terms used in the IFB documents that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference, and the National Truck and Equipment Association (NTEA) Truck Equipment Glossary available online at http://www.ntea.com/content.aspx?id=22114 . In addition, the following definitions shall apply:

**"Additional Options and Aftermarket Components (AOAC) Discount"** shall refer to the percentage amount deducted from the MSRP (for Chassis Cab Options), or Contractor-Published Pricelist (for Dump Body Options, additional Plow Models, Plow Options, and Aftermarket Components), as applicable, for any additional Options and Aftermarket Components offered for the Chassis Cab, Truck Body, or Plow, for Authorized User purchases that are not included in the Base Item specifications. See also Chassis Cab AOAC Discount, Dump Body AOAC Discount and Plow AOAC Discount.

**"Aftermarket Component(s)"** shall mean any accessory, equipment, or feature that is manufactured by an OEM other than the Chassis Cab or Truck Body OEM, and is not included in the OEM Product Line, and that may be installed on the Chassis Cab or Truck Body by the Contractor, or third-party.

**"Aftermarket Component Provider"** shall refer to the provider of an Aftermarket Component (i.e., Contractor or third-party).

**"Authorized User(s)"** as defined in State Finance Law §163(1)(k).

**"Base Item (or Item)"** shall refer to a Chassis Cab, Truck Body or Upfitted Truck and its corresponding specifications, as set forth in Attachment 1: *Specifications and Price Pages*.

~~**"Base Item Discount"** shall refer to the percentage amount deducted from the MSRP for the Base Item, for Authorized User purchases.~~

**"Base Item Unit Price"** shall refer to the sum of ~~the Base Item MSRP~~ each Chassis Cab, Dump Body and Plow Price included in the Base Item. The Base Item Unit Price is synonymous with the Chassis Cab Price for Chassis Cab Lots (Lots I, II, and III). ~~minus the Base Item Discount.~~ The Base Item Unit Price is the price NYS Authorized Users will pay the Contractor for the ~~Base Item~~Chassis Cab, Dump Body and/or Plow, as applicable.

**"Bidder"** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a contract with the State for their services a Bidder shall become a "Contractor." See also "Contractor."

**"Bidder-Published Pricelist"** shall refer to the ~~nationally published~~ electronic, (i.e., in Excel or PDF format), document(s) issued by the Bidder which lists, among other things, an item number, description and MSRP for the Bidder's complete Product Line for this solicitation. Upon Contract execution, the Bidder-Published Pricelist shall be referred to as the Contractor-Published Pricelist.

**"Chassis Cab"** shall refer to a vehicle that consists of the cab (the driver passenger carrying compartment) and the chassis (frame, wheels, and machinery of a motor vehicle – including the vehicles engine, transmission, driveshaft, differential, and suspension), and is an incomplete vehicle that requires the addition of a Truck Body to perform its intended functions.

**"Chassis Cab AOAC Discount"** shall refer to the AOAC Discount that applies to Chassis Cabs.

**"Chassis Cab Contractor"** shall refer to a responsive and responsible Bidder who has attained the lowest or second lowest Grand Total For Lot score for Chassis Cab Lots, (Lots I, II and III), and is working under an executed Contract with New York State.

**"Chassis Cab Discount"** shall refer to the percentage amount deducted from the Chassis Cab MSRP for Authorized User purchases for the Base Item and for any additional Chassis Cab Models offered under the Contract. See Section III.1.2 *Additional Chassis Cab and Truck Body Product Line Discounts*.

**"Chassis Cab MSRP"** shall refer to the MSRP of the Chassis bid for a Chassis Cab included in a Base Item.

**"Chassis Cab Price"** shall refer to the Chassis Cab MSRP minus the Chassis Cab Discount. The Chassis Cab Price is synonymous with the Base Item Unit Price for Chassis Cab Lots (Lots I, II, and III).

**"Chronic Failure"** shall refer to a component of a Chassis Cab or Upfitted Truck that repeatedly fails or becomes inoperable and has to be replaced more than once within the OEM rated life expectancy of the component.

**"Class 8"** shall mean a truck classification that is determined based on the Upfitted Truck's GVWR. Class 8 trucks have a GVWR of 33,001 lb. or greater.

"**Contract"** as defined in Appendix B §2 *Definitions*.

**"Contract Pricelist"** shall refer to the pricelist which identifies the Make(s), Model(s) and Model Code(s), NYS discounts (i.e., ~~Base Item~~Chassis Cab, Dump Body and Plow Discounts, AOAC Discount), NYS Net Contract Price, and configuration of the of the Base Item(s), which has been approved by Procurement Services for inclusion in the Contract. OGS reserves the right to require that the Contract Pricelist include an item number, description and NYS Contract Price for Options and Aftermarket Components to be offered under the Contract.

**"Contractor-Published Pricelist"** shall refer to the ~~nationally published~~ electronic, (i.e., in Excel or PDF format), document(s) issued by the Contractor which lists, among other things, an item number, description and MSRP for the Contractor's complete Product Line for the Contract. Prior to Contract execution, the Contractor-Published Pricelist shall be referred to as the Bidder-Published Pricelist.

**"Contractor"** as defined in Appendix B §2 *Definitions*.

**"Dealer(s)"** shall refer to alternate distribution sources for an OEM that are authorized and designated by said OEM, subject to approval by New York State.

**"Dealer Invoice"** shall refer to the Bidder document(s) which lists, at a minimum:

(1) The Make, Model and Model Code of the Chassis Cab bid;

(2) The MSRP of the standard base Chassis Cab, excluding Options, other applicable OEM fees (e.g. destination fees), and Aftermarket Components;

(3) The MSRP and Option Code for each Option included in the Chassis Cab bid;

(4) The total MSRP for the Chassis Cab bid, inclusive of standard equipment and Options.

(5) If Aftermarket Components are included in the Chassis Cab bid, the Bidder must also provide a Bidder-Published Pricelist that includes the MSRP for the applicable Aftermarket Components.

**"Delivery Allowance Schedule (DAS)"** refers to the schedule that shall be used to determine maximum delivery charges for a Chassis Cab or Upfitted Truck purchased from the Contract.

**"Delivery Charge"** shall mean the total amount charged to the Authorized User for shipment of the Chassis Cab or Upfitted Truck from the Delivery Origin to the location(s) designated by the Authorized User on the Purchase Order.

**"Delivery Cost per Mile"** shall refer to the dollar amount that an Authorized User pays the Contractor, for each mile travelled by the Contractor, when a Chassis Cab or Upfitted Truck is delivered to either a Truck Body Contractor or to the Authorized User.

**"Delivery Origin"** shall mean the location from which the Contractor delivers a Chassis Cab or Upfitted Truck to the Authorized User (i.e., Contractor's place of business or other location specified by the Contractor).

**"Dump Body" or "Dump"** shall refer to a Truck Body which has a bed that tilts backward and/or sideways to dump loose material.

**"Dump Body AOAC Discount"** shall refer to the AOAC Discount that applies to Dump Bodies.

**"Dump Body Discount"** shall refer to the percentage amount deducted from the Dump Body MSRP for Authorized User purchases for the Base Item and for any additional Dump Body Models offered under the Contract. See Section III.1.2 *Additional Chassis Cab and Truck Body Product Line Discounts*.

**"Dump Body MSRP"** shall refer to the MSRP of the Dump Body bid for a Dump Body included in a Base Item.

**"Dump Body Price"** shall refer to the Dump Body MSRP minus the Dump Body Discount.

**"ELP"** shall refer to Équipements Lourds Papineau Inc., manufacturer of an Interchangeable Body Systems product line.

**"ELP Discount"** shall refer to the percentage amount deducted from the ELP Interchangeable Body Systems Product Line MSRP, for Authorized User purchases.

**"Evaluation Dollar Amount"** shall refer to a dollar amount used in this IFB to evaluate cost. This number is based on historic sales and anticipated future needs, and is for evaluation purposes only. It is not a guaranteed purchase under the contract.

**"Evaluation Mileage"** shall refer to a distance, in miles, used in this IFB to evaluate delivery cost. This number is for evaluation purposes only. It is not a guaranteed purchase under the contract.

**"Evaluation Price"** shall refer to a price calculated in this IFB to evaluate cost. This number is for evaluation purposes only. It is not a guaranteed purchase under the contract.

**"Evaluation Quantity"** shall refer to a quantity used in this IFB for evaluation. This number is based on historic sales and anticipated future needs, and is for evaluation purposes only. It is not a guaranteed purchase under the resultant Contract(s).

**"Evaluation Total For Item"** shall refer to the dollar amount used in this IFB for evaluation of a Base Item cost. See Section IV.3 *Evaluation Total for Item Calculation*.

**"Executive Agency(ies)"** shall mean all State departments, offices or institutions but, for the purposes of this IFB, excludes the State University of New York and excludes City University of New York. Furthermore, such term shall not include the legislature, the judiciary, public benefit corporation, public authority, or local government entity.

**"Final Order Due Date"** shall mean the last calendar date that an Authorized User may issue a Purchase Order to the Contractor for a Chassis Cab or Truck Body, in order to have the Chassis Cab or Truck Body built before Model Year build-out date.

**"Grand Total For Lot"** shall mean the sum of the Evaluation Total For Item for all Base Items in a Lot. For a Lot that includes only one (1) Base Item, the Grand Total For Lot is equal to the Evaluation Total For Item.

**"GVWR"** shall refer to Gross Vehicle Weight Rating. The maximum total vehicle weight, measured at the tire-ground interfaces, for which the vehicle possesses components adequately rated to safely carry.

**"Heavy Duty Truck"** shall refer to a Chassis Cab Truck with a GVWR of 33,001 lb. or over (i.e., Class 8 Vehicles, as designated by the U.S. Department of Transportation).

**"Interchangeable Body Systems"** shall refer to a detachable Truck Body system that allows several different Truck Bodies to be used with the same Chassis Cab.

**"Invitation for Bids (IFB)"** shall refer to this document, and its appendices and attachments.

**"Lot"** shall refer to a grouping of Items as set forth in Attachment 1: *Specifications and Price Pages*.

**"M/WBE"** shall refer to a business certified with Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.

**"Make"** shall refer to the OEM company name of a Chassis Cab or Truck Body Model (e.g., International, Freightliner, Viking, Galion).

**"May"** denotes the permissive in a clause or specification of this IFB or a resulting contract. "May" does not mean "required." Also see "Shall" and "Must."

**"Model"** shall refer to a particular brand of Chassis Cab or Truck Body sold by an OEM (e.g., ProStar, Cascadia, Proline, 450U).

**"Model Code"** shall refer to the OEM code used to identify a particular subset of a Model.

**"Model Year"** shall mean the year used to designate a discrete Chassis Cab or Truck Body Model, irrespective of the calendar year in which the Chassis Cab or Truck Body was actually produced, provided that the production period does not exceed 24 months.

**"Model Year Build-Out Date"** shall mean the last date of manufacture for the Model Year of a Chassis Cab or Truck Body Model.

**"MSRP"** shall refer to the Manufacturer's Suggested Retail Price (also known as Manufacturer's Suggested List Price, or List Price), or the standard retail price included on the Bidder-Published Pricelist, as applicable.

**"Must"** denotes the imperative in a clause or specification of this IFB or a resulting contract. "Must" is synonymous with "required." Also see "Shall" and "May."

**"N/A"** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.

**"Procurement Services"** formerly known as Procurement Services Group (PSG) and New York State Procurement (NYSPro) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such contracts.

**"NYS Net Contract Price(s)"** shall mean the price charged to the Authorized User for an Item, Option or Aftermarket Component, inclusive of installation fees. The NYS Net Contract Price does not include Delivery Charge.

**"NYS Vendor ID"** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.

**"OEM"** shall refer to the Original Equipment Manufacturer.

**"OEM Pricelist"** shall refer to the nationally published electronic, (i.e., in Excel or PDF format), document(s) issued by the Chassis Cab manufacturer which lists, among other things, an Option Code, description and MSRP for the OEM's Product Line.

**"OGS"** shall mean the New York State Office of General Services.

**"Options"** shall refer to an accessory, equipment, or feature that can be added to, or deleted from, a Chassis Cab, Truck Body, or Plow. For the purposes of this solicitation, Options include only those accessories, equipment, or features that are available from the Chassis Cab, Truck Body or Plow OEM.

**"Option Code"** shall refer to an alpha-numerical code (also known as Feature Code) used by an OEM to identify a particular feature or Option included with, or available for, a Chassis Cab, Truck Body or Plow.

**"Plow"** shall mean a flat or curved piece of metal that is attached to the front of a Chassis Cab and used for clearing snow from a road, driveway, etc.

**"Plow AOAC Discount"** shall refer to the AOAC Discount that applies to Plows and related Plow Options, for Authorized User purchases.

**"Plow Discount"** shall refer to the percentage amount deducted from the Plow MSRP for Authorized User purchases for the Base Item.

**"Plow MSRP"** shall refer to the MSRP of the Plow bid for a Plow included in a Base Item.

**"Plow Price"** shall refer to the Plow MSRP minus the Plow Discount.

**"Primary Chassis Cab Contractor"** shall refer to a responsive and responsible Bidder having the lowest Grand Total For Lot score for a Chassis Cab Lot (Lots I, II and III). The Primary Chassis Cab Contractor shall be the first selection among Contractors by Executive Agencies for Chassis Cab orders. See also, "Secondary Chassis Cab Contractor."

**"Primary Truck Body Contractor"** shall refer to the responsive and responsible Bidder having the lowest Grand Total For Lot for a Truck Body Lot (Lots IV and V), exclusive of Lot VI (ELP Interchangeable Body Systems). The Primary Truck Body Contractor shall be the first selection among Contractors by Executive Agencies for Truck Body orders, exclusive of Lot VI (ELP Interchangeable Body Systems). See also, "Secondary Truck Body Contractor."

**"Product Line"** shall mean a group of related products manufactured by a single company, or offered by a company in their usual course of business.

**"Region"** shall refer to a grouping of New York State counties as set forth in the Delivery Allowance Schedule (DAS).

**"Secondary Chassis Cab Contractor"** shall refer to the responsive and responsible Bidder, representing a different OEM than the Primary Chassis Cab Contractor, having the second lowest Grand Total For Lot score for a Chassis Cab Lot (Lots I, II and III). The Secondary Chassis Cab Contractor shall be the second selection among Contractors by Executive Agencies for Chassis Cab orders. See also "Primary Chassis Cab Contractor."

**"Secondary Truck Body Contractor"** shall refer to the responsive and responsible Bidder, representing a different OEM than the Primary Truck Body Contractor, having the second lowest Grand Total For Lot for a Truck Body Lot (Lots IV and V), exclusive of Lot VI (ELP Interchangeable Body Systems). The Secondary Truck Body Contractor shall be the second selection among Contractors by Executive Agencies for Truck Body orders, exclusive of Lot VI (ELP Interchangeable Body Systems). See also "Primary Truck Body Contractor."

**"Shall"** denotes the imperative in a clause or specification of this IFB or a resulting contract. "Shall" is synonymous with "required." Also see "Must" and "May."

**"Small Business"** as defined in Executive Law Section 310(20).

**"State Agency(ies)"** shall refer to all New York State departments, offices or institutions, including Executive Agencies.

**"Total (Chassis Cab, Dump Body, or Plow) AOAC Evaluation Price"** shall refer to the applicable Additional AOAC Evaluation Dollar Amount minus the applicable AOAC Discount.

**"Total Base Item Evaluation Price"** shall refer to the Evaluation Quantity multiplied by the Base Item Unit Price.

~~**"Total Base Item MSRP"** shall refer to the MSRP of the Base Item bid, inclusive of all equipment listed in the corresponding Base Item specifications in Attachment 1: *Specifications and Price Pages*. Total Base Item MSRP does not include the Delivery Charge.~~

**"Total Delivery Evaluation Price"** shall refer to the Evaluation Mileage multiplied by the Delivery Cost per Mile.

**"Truck Body(ies)"** refers to the portion of the vehicle that carries the load or cargo, and is attached to a separate Chassis Cab. For the purposes of this IFB, Truck Bodies includes the following body types: Dump and Interchangeable Body Systems.

**"Truck Body Contractor"** shall refer to a responsive and responsible Bidder who has attained the lowest or second lowest Grand Total For Lot score for a Truck Body Lot (Lots IV, V and VI), and is working under an executed Contract with New York State. See also "Primary Truck Body Contractor" and "Secondary Truck Body Contractor."

**"Upfitted Truck"** shall mean the Product that is the result of the Chassis Cab and Truck Body being joined together to form a complete vehicle that is ready for use and can perform its intended functions.

**"Upfitted Truck Contractor"** shall refer to a responsive and responsible Bidder who has attained the lowest or second lowest Grand Total For Lot score for an Upfitted Truck Lot (Lots VII, VIII and IX), and is working under an executed Contract with New York State.

# SECTION II: GENERAL TERMS AND CONDITIONS

This section sets forth the general terms and conditions that shall be incorporated into the resulting Contract.

## II.1 APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, attached hereto, is hereby expressly made a part of this bid document as fully as if set forth at length herein. **Please retain this document for future reference and do not return to OGS as part of the bid submission.**

## II.2 APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated July 2014, attached hereto, is hereby expressly made a part of this Bid Document as fully as if set forth at length herein and shall govern any situations not covered by this bid document or Appendix A. **Please retain this document for future reference and do not return to OGS as part of the bid submission.**

## II.3 APPENDIX B MODIFICATIONS

The following Appendix B clauses are hereby modified for the purposes of this solicitation:

A. Section 23, *Tie Bids*, is deleted and replaced with the following language:

   **23. TIE BIDS** In the event two offers are found to be substantially equivalent, the highest AOAC Percent Discount shall be the basis for determining the award recipient. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

B. Section 33, *Product Delivery*, is deleted and replaced in its entirety by Section III.5 of this IFB, *Delivery*.

## II.4 CONFLICT OF TERMS

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

A. Appendix A: *Standard Clauses for New York State Contracts*;

B. This Invitation For Bids;

C. Appendix B: *Office of General Services General Specifications*; and

D. Other Attachments as deemed necessary.

## II.5 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.

## II.6 MERCURY ADDED CONSUMER PRODUCTS

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

## II.7 ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NO. 4

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at http://ogs.ny.gov/EO/4/Default.asp. The Executive Order No. 4 specification for lubricating oil, high detergent, adopted in February 2009, for example, specifies that where lubricating oil with post-consumer material content is available at a competitive cost and meets the entity's form, function and utility requirements, all affected state entities shall, to the maximum extent practicable, purchase lubricating oil that meets or exceeds a minimum percentage of post-consumer material content by weight of 55 percent. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

## II.8 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/.

## II.9 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.

## II.10 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 and 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/.

## II.11 NEW YORK STATE REQUIRED CERTIFICATIONS

A Bidder is required to submit the signed New York State Required Certifications (Attachment 3: *Bid Documents (Paper),* Section A: *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.

## II.12 USE OF RECYCLED OR REMANUFACTURED MATERIALS

New York State supports and encourages contractors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this bid solicitation. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when

remanufacturer does not offer new equipment. See "*Remanufactured, Recycled, Recyclable or Recovered Materials*" in Appendix B, OGS General Specifications.

## II.13 PURCHASE ORDERS AND INVOICING

All Purchase Orders and invoices/vouchers shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order with the manufacturer and that the manufacturer has accepted the order and assigned an order number and anticipated build and delivery dates.

### II.13.1 PURCHASE ORDERS

Purchase orders are to include the following information:

A. Contract number;
B. Contractor name;
C. Make, Model and Model Code of the Chassis Cab, Truck Body and/or Plow, as applicable;
D. Option code(s) and descriptions, if applicable;
E. Aftermarket Components part numbers and descriptions, if applicable;
F. MSRP for each Product, Option, and Aftermarket Component;
G. Base Item, AOAC and Discount(s), as applicable;
H. Liquidated damages, if any;
I. Calculation of NYS Net Contract Price; and
J. Specific designation of special price(s) which may be better than the NYS Net Contract Price.

### II.13.2 INVOICES

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice **all** of the following items. Failure to comply may result in lengthy payment delays. Invoices shall include, at a minimum, the following information:

A. Contract number;
B. NYS Vendor ID;
C. Purchase Order number;
D. Make, Model and Model Code of the Chassis Cab, Truck Body and/or Plow, as applicable;
E. Option code(s) and descriptions, if applicable;
F. Aftermarket Components part numbers and descriptions, if applicable;
G. Calculation of NYS Net Contract Price;
H. Breakdown of liquidated damages, if any (see VI.3 *Liquidated Damages*);

### II.13.3 MSRP VERIFICATION

An Authorized User may verify MSRP information, especially for Options and Aftermarket Components. The Contractor shall, upon request by the Authorized User, provide a copy of the most recently published OEM Pricelist. See also Section III.1.6 *Contract Pricelist* and III.1.7 *Aftermarket Components Pricelists.*

## II.14 CONTRACT PAYMENTS

Payments cannot be processed by Authorized Users until the Chassis Cab or Upfitted Truck has been delivered and accepted in accordance with Section III.5 *Delivery*. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in Section II.13 *Purchase Orders and Invoicing*, including description of the Product as well as Vendor ID. See also Appendix B §49 *Contract Invoicing*.

## II.15 "OGS OR LESS" GUIDELINES APPLY

Purchases of the products included in this Contract are subject to the "OGS or Less" provisions of New York State Finance Law § 163(3)(a)(v). This means that State agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. Lower in price

   -And/Or-

2. Available under terms which are more economically efficient to the State agency (e.g. delivery terms, warranty terms, etc.).

State agencies are reminded that they must provide the Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit.

## II.16 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 §27 *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 Procurement Services Customer Services at 518-474-6717.

## II.17 EXTENSION OF USE

Any Contract resulting from this Bid 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.

## II.18 EXTENSION OF USE COMMITMENT

The Contractor agrees to honor all orders from State Agencies, political subdivisions and others authorized by law (see Section II.17 *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.

## II.19 CONTRACT PERIOD AND RENEWALS

The Contract(s) shall commence after all necessary approvals by both parties, and shall become effective upon mailing of the final Contract Award Notice by OGS (see Appendix B §26 *Contract Creation/Execution*). The Contract(s) shall be in effect for three (3) years. All Heavy Duty Truck Contracts awarded under solicitation 22910 will terminate simultaneously three (3) years from the date of OGS approval of the first contract awarded. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two (2) additional one (1) year terms. The Contract renewal may be exercised on a month to month basis such as an additional three month, six month, twelve month, or 24 month period.

## II.19.1 SHORT TERM EXTENSION

In the event that 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 one 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 months in lieu of one month. However, this extension terminates should a replacement contract be issued in the interim.

## II.20 POOR PERFORMANCE

Authorized Users should notify Procurement Services Customer Services promptly if the Contractor fails to meet the requirements of the contracts resulting from this solicitation. Performance which does not comply with requirements or is otherwise unsatisfactory to the Authorized User should also be reported to Customer Services:

Office of General Services
Procurement Services
Customer Services
38th Floor Corning Tower
Empire State Plaza
Albany, NY 12242

Tel: 518-474-6717
Fax: 518-474-2437
Email: customer.services@ogs.ny.gov

## II.21 CONTRACT ADVERTISING

In addition to the requirements set forth in Appendix B §13 *Advertising Results*, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance. See also Section III.2.10 *Advertising*.

## II.22 OVERLAPPING CONTRACT ITEMS

Products/services available in the resulting Contract may also be available from other New York State contracts. 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.

## II.23 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES

NEW YORK STATE LAW

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 report 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 (“MWBEs”) and the employment of minority groups members and women in the performance of New York State contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women.

The Contractor is required to ensure that it and any subcontractors awarded a subcontract over $25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, 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.

The Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to OGS, a workforce utilization report on Form EEO 101, identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), 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 conviction and prior arrest.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs)

A. For purposes of this procurement, OGS has conducted a comprehensive search and has determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers and suppliers to the awarded Contractors. Contractors are, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs who perform commercially useful functions on this Contract for the provision of services and materials. To locate MWBEs, the Directory of Certified Businesses can be viewed at: https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528. Additionally, 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. Commercially Useful Function

   Pursuant to 5 NYCRR § 140.1(f), a MWBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, a MWBE must, where applicable and in accordance with any State Agency specifications, also be responsible, with respect to materials and supplies used on the contract, for ordering and negotiating price, determining quality and quantity and installing. A MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation. OGS will assess whether a MWBE is performing a commercially useful function by considering the following:

   (1) the amount of work subcontracted;

   (2) industry practices;

   (3) whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;

   (4) the credit claimed towards MWBE utilization goals for the performance of the work by the MWBE; and

   (5) any other relevant factors.

C. Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include the following:

(1) A list of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.

(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.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

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

## II.24 REPORT OF CONTRACT USAGE

The Contractor shall furnish a report of all Product provided under the Contract during each quarterly period, no later than fifteen (15) days following the close of the quarterly period. Quarterly periods will end on March 31st, June 30th, September 30th and December 31st. If the Contract period begins or ends in a fractional portion of a reporting period only the actual Contract sales for this fractional period should be reported in that quarterly report. Purchases by all Authorized Users under the Contract shall be reported in the same report and be indicated as required. A template for such report is included In Attachment 6: *Report of Contract Usage*. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided, in Microsoft Excel 2003, or newer (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the OGS group number, award number, Contract Number, sales period, and Contractor's (or other authorized agent) name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

## II.25 JOINT VENTURE OR PARTNERSHIP BIDS

Should the Contractor elect to undertake Contract performance with a joint venture partner, the Contractor acknowledges that all other members of the joint venture would likely be deemed to be subcontractors and the Contractor may be liable for claims made against an uninsured Joint Venture partner. Contractor shall require all such Joint venture partners, prior to commencement of an agreement between Contractor and the Joint venture partner, to secure and keep in force during the term of any Contract resulting from this IFB, the insurance requirements of this document on the Joint venture partner, as applicable.

In the sole discretion of the Commissioner, any Bid may be rejected on the basis that such Bid may unfairly affect competition or may not be able to fulfill the requirements of the Contract. Also see Attachment 3: *Bid Documents (Paper)*, Section A: *New York State Required Certifications*.

## II.26 CENTRALIZED CONTRACT MODIFICATIONS

A. OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth

herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

B. Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

C. OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

D. All modifications proposed by Contractor, shall be processed in accordance with Attachment 7: *Contract Modification Procedure*. The Contractor shall submit all requests in the form and format contained in Attachment 7: *Contract Modification Procedure*.

   The form contained within Attachment 7: *Contract Modification Procedure* is subject to change at the sole discretion of OGS.

E. Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B §28 *Modification of Contract Terms*.

## II.27 PERFORMANCE AND BID BONDS

There are no bonds required for the Contract resulting from this solicitation. In accordance with Appendix B §45 *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.

## II.28 WEB ACCESSABILITY

Any web-based information and applications development, or programming delivered pursuant to the contract or procurement, will comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Web-Based Information and Applications as such policy may be amended, modified or superseded, which requires that state agency web-based information and applications are accessible to persons with disabilities. Web-based information and applications must conform to New York State Enterprise IT Policy NYS-P08-005 as determined by quality assurance testing. Such quality assurance testing will be conducted by OGS and the results of such testing must be satisfactory to OGS before web-based information and applications will be considered a qualified deliverable under the contract or procurement.

## II.29 NEW YORK STATE STATEWIDE FINANCIAL SYSTEM

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the contract period, and by submittal of a bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions,

including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: http://www.sfs.ny.gov/.

## II.30 ADDITIONAL REQUIREMENTS

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

## II.31 DISPUTE RESOLUTION PROCEDURES

A. Informal Dispute Resolution Process

1. In the event there is a dispute under this Centralized Contract, the Contractor, OGS and Authorized User agree to exercise their best efforts to resolve the dispute as soon as possible. The Contractor, OGS and Authorized User shall, without delay, continue to perform their respective obligations under this Centralized Contract which are not affected by the dispute. Primary responsibility for resolving any dispute arising under this Centralized Contract shall rest with the Authorized User's Contractor Coordinators and the Contractor's Account Executive and the State & Local Government Regional General Manager.

2. In the event the Authorized User is dissatisfied with the Contractor's Products provided under this Centralized Contract, the Authorized User shall notify the Contractor in writing pursuant to the terms of the Contract. In the event the Contractor has any disputes with the Authorized User, the Contractor shall so notify the Authorized User in writing. If either party notifies the other of such dispute, the other party shall then make good faith efforts to solve the problem or settle the dispute amicably, including meeting with the party's representatives to attempt diligently to reach a satisfactory result through negotiation.

3. If negotiation between the Contractor and Authorized User fails to resolve any such dispute to the satisfaction of the parties within fourteen (14) business days or as otherwise agreed to by the Contractor and Authorized User, of such notice, then the matter shall be submitted to the State's Contract Administrator and the Contractor's senior officer of the rank of Vice President or higher as its representative. Such representatives shall meet in person and shall attempt in good faith to resolve the dispute within the next fourteen (14) business days or as otherwise agreed to by the parties. This meeting must be held before either party may seek any other method of dispute resolution, including judicial or governmental resolutions. Notwithstanding the foregoing, this section shall not be construed to prevent either party from seeking and obtaining temporary equitable remedies, including injunctive relief.

4. The Contractor shall extend the informal dispute resolution period for so long as the Authorized User continues to make reasonable efforts to cure the breach, except with respect to disputes about the breach of payment of fees or infringement of its or its licensors' intellectual property rights.

B. Formal Dispute Process

1. Definitions

   a. Filed means the complete receipt of any document by OGS before its close of business.

   b. Interested Party for the purpose of filing a dispute relating to a solicitation, as used in this section, means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a Contract or by the failure to award a Contract.

   c. Interested Party for the purpose of filing a dispute relating to a Contract award, as used in this section, means an actual bidder or offeror for the subject Contract.

d. Interested Party for the purpose of filing a dispute relating to the administration of the Contract, as used in this section, means the awarded Contractor for the subject Contract.

e. Issuance of award means the Date of Issue identified on the Contract Award Notification transmitted by OGS.

f. A Formal Dispute means a written objection by an Interested Party to any of the following:

i. A solicitation or other request by OGS for offers for a contract for the procurement of commodities, services or technology.

ii. The cancellation of the solicitation or other request by OGS.

iii. An award or proposed award of the Contract by OGS.

iv. A termination or cancellation of an award of the Contract by OGS.

v. Changes in the scope of the Centralized Contract by the Commissioner.

vi. Determination of "materiality" in an instance of nonperformance or contractual breach.

vii. An equitable adjustment in the Centralized Contract terms and/or pricing made by the Commissioner during a Force Majeure event.

2. Submission of Formal Disputes

a. A Formal Dispute must be filed in writing with the Director of Procurement Services by mail or facsimile, using the following contact information:

Director, Procurement Services
A Division of the Office of General Services
38th Floor, Corning Tower
Empire State Plaza
Albany, NY 12242
Facsimile: (518) 474-2437

b. The Formal Dispute must include:

i. Name, address, e-mail address, fax and telephone numbers of the filer.

ii. Solicitation or Contract number.

iii. Detailed statement of the legal and factual grounds for the Formal Dispute, including a description of resulting prejudice to the filer.

iv. Copies of relevant documents.

v. Request for a ruling by the agency.

vi. Statement as to the form of relief requested.

vii. All information establishing that the filer is an Interested Party for the purpose of filing a Formal Dispute.

viii. All information establishing the timeliness of the Formal Dispute.

3. Formal Disputes concerning a solicitation shall be filed by an Interested Party (see II.B(1)(b)) with OGS no later than ten (10) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than ten (10) business days from the date of issue, Formal Disputes concerning the solicitation shall be filed with OGS at least twenty-four (24) hours before the time designated for receipt of bids.

4. Formal Disputes concerning a pending or awarded Contract must be filed within ten (10) business days by an Interested Party (see II.B(1)(c)) after the disputing party knew or should have known of the facts which form the basis of the Formal Dispute; however, a Formal Dispute may not be filed later than ten (10) business days after issuance of the Contract award.

5. Formal Disputes concerning the administration of the Contract after award (see II.B(1)(iv-vii)) must be filed within twenty (20) business days by an Interested Party (see II.B(1)(d)) after the disputing party knew or should have known of the facts which form the basis of the Dispute. However, if Contractor and Authorized User participate in the Informal Dispute Resolution Process, Formal Disputes concerning the administration of the Contract after award must be filed by Contractor within twenty (20) business days after the Contractor and Authorized User failed to reach resolution through the Informal Dispute Resolution Process set forth in Section II.A.

6. Agency Response

   a. OGS will consider all information relevant to the Formal Dispute, and may, in its discretion, suspend, modify, or cancel the disputed procurement/Contract action prior to issuance of a Formal Dispute decision.

   b. OGS reserves the right to require the filer to meet or participate in a conference call with OGS to discuss the Formal Dispute when, in its sole judgment, circumstances so warrant.

   c. OGS reserves the right to waive or extend the time requirements for decisions and final determinations on appeals herein prescribed when, in its sole judgment, circumstances so warrant.

   d. OGS reserves the right to consider or reject the merits of any Formal Dispute.

   e. Notice of Decision: A copy of the decision, stating the reason(s) upon which it is based and informing the filer of the right to appeal an unfavorable decision to the Chief Procurement Officer shall be sent to the filer or its agent by regular mail within thirty (30) business days of receipt of the Formal Dispute.

7. Appeals

   a. Should the filer be dissatisfied with the Formal Dispute determination, a written appeal may be filed with the Chief Procurement Officer, by mail or facsimile, using the following contact information:

Chief Procurement Officer
Procurement Services
A Division of the Office of General Services
38th Floor, Corning Tower
Empire State Plaza
Albany, NY 12242
Facsimile: (518) 474-2437

   b. Written notice of appeal of a determination must be received at the above address no more than ten (10) business days after the date the decision is received by the filer. The decision of the Director of Procurement Services shall be a final and conclusive agency determination unless appealed to the Chief Procurement Officer within such time period.

   c. The Chief Procurement Officer shall hear and make a final determination on all appeals or may designate a person or persons to act on his/her behalf. The final determination on the appeal shall be issued within twenty (20) business days of receipt of the appeal.

   d. An appeal of the decision of the Director of Procurement Services shall not include new facts and information unless requested in writing by the Chief Procurement Officer.

   e. The decision of the Chief Procurement Officer shall be a final and conclusive agency determination.

8. Legal Appeals
   a. Nothing contained in these provisions is intended to limit or impair the rights of any vendor or Contractor to seek and pursue remedies of law through the judicial process.

# SECTION III: SPECIAL TERMS & CONDITIONS

This section sets forth additional terms and conditions that shall be incorporated into the resultant Contract.

## III.1 PRICE

All bid pricing shall be the final published pricing on the currently available OEM Pricelist(s) or Bidder-Published Pricelist(s), as applicable. Bidder shall state the OEM Pricelist, or Bidder-Published Pricelist, name(s) and effective date(s) applicable to each Base Item bid on Attachment 1: *Specifications and Price Pages*, and provide the pricelist with the bid. A bid for a Base Item that uses pricing other than final published pricing, such as "draft" pricing, shall be deemed non-responsive and shall result in the rejection of the bid for that Base Item. The bid submitted by the successful Bidder will be incorporated into any resulting Contract and the Bidder will be required to provide the awarded Base Item(s) at the prices and discounts quoted in its bid.

The ~~Base Item~~ Discounts included in the bid, (i.e., Chassis Cab, Dump Body, Plow and ELP Discounts, and ~~Chassis Cab~~ AOAC Discounts~~, Dump Body AOAC Discount and Plow AOAC Discount~~) may be increased by the Contractor at any time during the Contract term, but may not be decreased for the entire term of the Contract.

### III.1.1 BASE ITEM UNIT PRICE

The Base Item Unit Price for each Base Item shall use the final published pricing on the currently available OEM Pricelist(s) or Bidder-Published Pricelist(s), as applicable. Unless otherwise specified by an Authorized User, the Base Item Unit Price for each Base Item shall also include all customs duties and charges, all vehicle preparation and clean-up charges, New York State motor vehicle inspection, installation charges and all other incidentals normally included with providing a Chassis Cab or Upfitted Truck, including any manufacturer's fees. Pursuant to Appendix B §35, *Shipping/Receipt of Product*, freight terms are F.O.B. Destination, and shipping costs shall be calculated in accordance with Section III.5 *Delivery*. Offers of pricing greater than the Base Item MSRP shall be rejected.

### III.1.2 ADDITIONAL CHASSIS CAB AND TRUCK BODY PRODUCT LINE DISCOUNTS

The ~~Base Item~~ d~~D~~iscounts offered for Chassis Cab and Truck Bodies shall be applied to the MSRP for additional Models offered under the Contract as follows. See also Section III.2.5 *Chassis Cab, Truck Body and Plow Substitutions*.

A. Chassis Cab Lots. The ~~Base Item~~Chassis Cab Discount for Chassis Cab Lots (i.e., Lots I, II and III) shall also be applied to the MSRP included on the OEM Pricelist for additional Chassis Cab Models offered under the Contract.

B. Truck Body Lots. The ~~Base Item~~Dump Body Discount for Truck Body Lots (i.e., Lots IV and V) shall also be applied to the MSRP included on the Contractor-Published Pricelist for additional Dump Body Models offered under the Contract. For Lot VI *ELP Interchangeable Body Systems*, the ELP Discount offered shall apply to both the ELP Product Line and for Aftermarket Components.

C. Upfitted Truck Lots. The ~~Base Item Discount~~Chassis Cab and Dump Body Discounts for Upfitted Truck Lots (i.e., Lots VII, VIII and IX) shall also be applied to the applicable MSRP included on the OEM Pricelist for additional Chassis Cab Models offered under the Contract, and to the MSRP included on the Contractor-Published Pricelist for additional Dump Body Models offered under the Contract.

### III.1.3 ADDITIONAL OPTIONS AND AFTERMARKET COMPONENTS (AOAC) DISCOUNT

Additional Options and Aftermarket Components (AOAC) to be offered under the Contract are limited to products that are (1) listed on the OEM or Contractor-Published Pricelist(s), and (2) may be installed on the awarded Chassis Cab series or Truck Body Product Line by the Contractor, or third-party. The following terms and conditions apply to AOAC:

A. Bidder shall offer a single discount for Chassis Cab, Dump Body and/or Plow AOAC for each Base Item, as applicable. Offers of pricing greater than the MSRP shall be rejected. Upon Contract execution, Contractor must offer all Chassis Cab Options, Dump Body Options, additional Plows Models and related Plow Options and Aftermarket Components sold under Contract at the applicable AOAC Discount. For Lot VI *ELP Interchangeable Body Systems*, the ELP Discount offered shall apply to both the ELP Product Line and for Aftermarket Components.

B. The AOAC Discount shall be applied to the MSRP on the OEM Pricelist or Contractor-Published Pricelist, as applicable, to yield a NYS Net Contract Price, as follows:

   1. Chassis Cab. The Chassis Cab AOAC Discount shall be applied to the MSRP included on the OEM Pricelist. If Aftermarket Components are offered for a Chassis Cab, the Chassis Cab AOAC Discount shall be applied to the MSRP included on the Contractor-Published Pricelist;

   2. Dump Body. The Dump Body AOAC Discount shall be applied to the MSRP included on the Contractor-Published Pricelist;

   3. Plow. The Plow AOAC Discount shall be applied to the MSRP included on the Contractor-Published Pricelist for additional Plow Models not included in the Base Item Specifications, and for Plow Options;

   4. Credits. The AOAC Discount shall not apply to an Option or Aftermarket Component with an MSRP that is a credit (e.g., -$20.00). The credit for such features shall be applied to the MSRP of the Base Item before applicable discounts are applied; and

   5. Replacement Parts. The discount for replacement parts shall be the applicable AOAC Discount (e.g., if the replacement part is for the Dump Body, then the Dump AOAC Discount shall apply).

C. When an AOAC is being added or deleted from the Base Item specifications, or upon request, Contractors are required to give the Authorized Users a copy of the OEM Pricelist or Contractor-Published Pricelist for the applicable AOAC. Any addition or deletion must be clearly shown on the invoice and clearly show the MSRP, the application of the AOAC Discount for the Option, and the resultant NYS Net Contract Price.

D. The NYS Net Contract Price for Options shall include any and all labor, installation, fittings, connections, etc., that might be needed to attach the Option to the Chassis Cab or Truck Body so that the Option operates to the Option's full design capabilities; there shall be no additional up-charges, fees, etc., for adding Options. The Contractor may add normal, published labor rates to install Aftermarket Components and, labor shall not be more than what is charged to the public at large.

E. If the Contractor sells an Option or Aftermarket Component to the public at large with pricing that is lower than the application of the Additional Options and Aftermarket Components Discount to the MSRP, then the price that is charged to the public at large shall be charged to Authorized Users. This shall be clearly shown on the invoice as a "Special Value" or by some other phrase or identifying designation.

## III.1.4 DELIVERY

Contractors will be required to deliver Chassis Cabs and Upfitted Trucks anywhere within New York State boundaries, as designated by the Authorized User on the Purchase Order. Pursuant to Appendix B §35, *Shipping/Receipt of Product*, freight terms are F.O.B. Destination. The cost of delivery shall be calculated either on a per mileage basis, or in accordance with the Delivery Allowance Schedule (DAS) below, whichever is less. A Bidder shall offer a Delivery Cost per Mile charge for each Base Item bid in Attachment 1: *Specifications and Price Pages*.

A. **Per Mileage Calculation**. If mileage is calculated on a per mileage basis, the mileage used for calculation shall be the actual mileage that the Chassis Cab or Upfitted Truck incurred as a result of the delivery, and/or the actual mileage that the Contractor incurred on a vehicle used for the delivery to the Truck Body

Contractor or Authorized User. Mileage travelled by the OEM when delivering Product to the Contractor's place of business, or the Contractor's authorized dealer location that is nearest to the delivery location, (e.g., when a Cab Chassis is drop-shipped to the Contractor), shall not be included in the calculation. If a Contractor's place of business is not located within the State of New York, then mileage shall be calculated from the point of entry into New York State.

B. **Delivery Allowance Schedule (DAS).** The following Delivery Allowance Schedule (DAS) indicates the maximum dollar amount that will be paid for delivery of a Chassis Cab or Upfitted Truck from the Delivery Origin to the applicable Region to which the Chassis Cab or Upfitted Truck is delivered. A Contractor may charge a Delivery Charge that is less than the Delivery Allowance. The Region is determined by the New York State County in which the Delivery Origin is located. If the Delivery Origin is not located within the State of New York, then the Region utilized shall be the Region that is closest in distance to the Delivery Origin.

EXAMPLE: If the Delivery Origin is in Albany County (Region 3), and the delivery location is in Westchester County (Region 5), the Delivery Allowance is $275. Each Contractor will only be concerned with their particular region (i.e., if the Delivery Origin is in Region 1, the only row that will be utilized is the first one).

Each February 1st, beginning with February 2016 the DAS chart shall be updated in accordance with changes in the CPI, (Series Id: CUUR0100SA0, CUUS0100SA0; Not Seasonally Adjusted; Area: Northeast urban; Item: All items, http://data.bls.gov/pdq/SurveyOutputServlet?series_id=CUUR0100SA0,CUUS0100SA0; by comparing the value for December of the year involved to the value for December 2014. For example, if the value for December 2015 is 220.4 and the value for December 2014 was 206.2, the DAS would increase by 6.89% (e.g., 220.4/206.2 = 1.0688965 = 6.89% rounded increase), effective February 1, 2016. The values in chart shall be rounded to the nearest five (5) dollar amount (e.g., $161 would be rounded to $160, and $166 would be rounded to $165).

**DELIVERY ALLOWANCE SCHEDULE (DAS):**

| VENDOR LOCATION | Delivery to Region | | | | | |
|---|---|---|---|---|---|---|
| **Region** | **1** | **2** | **3** | **4** | **5** | **6** |
| **1** | $190 | $275 | $455 | $525 | $620 | $815 |
| **2** | $275 | $190 | $275 | $275 | $345 | $620 |
| **3** | $455 | $275 | $190 | $275 | $275 | $620 |
| **4** | $525 | $275 | $275 | $190 | $525 | $795 |
| **5** | $620 | $345 | $275 | $525 | $190 | $310 |
| **6** | $815 | $620 | $620 | $795 | $310 | $190 |

**DELIVERY REGIONS:**

| Region 1 | Region 2 | Region 3 | Region 4 | Region 5 | Region 6 |
|---|---|---|---|---|---|
| Allegany | Broome | Albany | Clinton | Dutchess | Bronx |
| Cattaraugus | Cayuga | Columbia | Essex | Orange | Kings |
| Chautauqua | Chenango | Fulton | Franklin | Putnam | Nassau |
| Chemung | Cortland | Greene | St. Lawrence | Rockland | New York |
| Erie | Delaware | Hamilton | | Sullivan | Queens |
| Genesee | Herkimer | Montgomery | | Ulster | Richmond |
| Livingston | Jefferson | Rensselaer | | Westchester | Suffolk |
| Monroe | Lewis | Saratoga | | | |
| Niagara | Madison | Schenectady | | | |
| Ontario | Oneida | Schoharie | | | |
| Orleans | Onondaga | Warren | | | |
| Schuyler | Oswego | Washington | | | |
| Seneca | Otsego | | | | |
| Steuben | Tioga | | | | |

| | | | | | |
|---|---|---|---|---|---|
| Wayne | Tompkins | | | | |
| Wyoming | | | | | |
| Yates | | | | | |

## III.1.5 BID PRICING SUBMITTAL

If submitting a bid for a Lot, Bidder is required to complete all yellow-shaded cells on all tabs applicable to the Lot (i.e., Bid Summary, and Base Items, as applicable), in Attachment 1: *Specifications and Price Pages*. A Bidder for a Lot that includes a Chassis Cab, (i.e., Chassis Cab Lots I, II and III, and Upfitted Truck Lots VII, VIII and IX), shall also submit a Dealer Invoice for each Base Item in the Lot. **Failure to provide this information for a Base Item will render the bid non-responsive for that individual Base Item and shall result in the disqualification of the bid for the applicable Lot.**

The MSRP entered in Attachment 1: *Specifications and Price Pages* for a Chassis Cab shall match the total MSRP, including Options and other costs, that is listed on the Dealer Invoice for a Chassis Cab. In the case of discrepancies, the amount on the Dealer Invoice shall take precedence over the amount entered in Attachment 1: *Specifications and Price Pages.*

Bidders shall provide OEM Pricelist(s), or Bidder-Published Pricelist(s), as applicable, for each Base Item being bid. Failure to provide this information for a Base Item at the time of bid opening, or within five (5) business days of Procurement Services request, will delay award of the resultant Contract, and may render the bid non-responsive for the applicable Base Item and result in the disqualification of the Bid for the applicable Lot. The determination of whether or not such documentation is equal to OEM Pricelist, or Bidder-Published Pricelist, as defined in this IFB, shall be at the sole discretion of the State. The State reserves the right to request clarifying or additional information from the Bidder in order to make such determination.

## III.1.6 ROUNDING CALCULATIONS

For all dollar amounts and discount percentages that a Bidder may enter, a Bidder may enter as many decimal places as desired and the formulas included in the Price Pages will calculate based on the full number entered. However the number displayed in the cells will be rounded to no more than two (2) decimal places (e.g., $6.246 shall be rounded to $6.25 and $7.232 shall be rounded to $7.23).

## III.1.7 CONTRACT PRICELIST

The bid submitted by the successful Bidder will be incorporated into the Contract Pricelist, and the Contractor will be required to provide the awarded Base Item(s) at the prices and discounts quoted in its bid.

The Contract Pricelist shall be made available to Authorized Users and posted publically on the OGS Web site, and shall include at a minimum, the Make(s), Model(s) and Model Code(s), NYS discounts (i.e., ~~Base Item~~Chassis Cab, Dump Body, Plow and ELP Discounts, and AOAC Discounts), NYS Net Contract Price, and configuration of the of the Base Item(s) and Plow, if applicable, which has been approved by Procurement Services for inclusion in the Contract. OGS reserves the right to require that the Contract Pricelist include an item number, description and NYS Contract Price for Options and Aftermarket Components to be offered under the Contract.

Notwithstanding the foregoing, where an Authorized User does not have the capability to access Contract information electronically, it shall be the Contractor's responsibility, upon Authorized User request, to furnish, without charge, Contract Pricelists, and applicable OEM and Contractor-Published Pricelists, pursuant to the Contract, to Authorized Users who request them. Contract Pricelists, and applicable OEM and Contractor-Published Pricelists, may be furnished to Authorized Users in either hard-copy or electronic format. If available in both formats, they shall be furnished in the format preferred by the requesting Authorized User. Upon request, the Contractor shall assist Authorized Users in the use of Contract Pricelists.

In order to receive approval for additions and deletions of Product from the Contract Pricelist, the Contractor must submit a completed Attachment 6: *Report of Contract Usage* and the applicable OEM Pricelist(s), identified with

name and effective date, to the Procurement Services Contract administrator. If approved, Procurement Services will notify the Contractor in writing and post the revised Contract Pricelist to the OGS website.

### III.1.8 AFTERMARKET COMPONENTS PRICELISTS

Upon request by the Authorized User, a Contractor shall supply a hard-copy or electronic copy of the Contractor-Published Pricelist for Aftermarket Components that are sold under the Contract.

### III.1.9 PRICE CHANGES

Chassis Cab, Truck Body, Upfitted Truck and Option prices are firm for either the first twelve (12) months of the Contract term, or for the Model Year bid, if applicable. Thereafter, prices shall be subject to increase or decrease during the Contract period in accordance with the following:

A. Chassis Cab. Changes to Chassis Cab and related Options prices may be requested in accordance with MSRP price adjustments made to the OEM Pricelist during the current Model Year, or upon announcement of a new Model Year.

B. Dump Bodies (excluding ELP) and Plows. Changes to Dump Body, Plows and related Options prices may be requested in accordance with MSRP price adjustments made to the Contractor-Published Pricelist;

C. ELP Interchangeable Body Systems. Changes to ELP Interchangeable Body Systems prices may be requested in accordance with MSRP price adjustments made to the OEM Pricelist.

D. Plows. Changes to Plow and related Options prices may be made in accordance with MSRP price adjustments made to the Contractor-Published Pricelist;

E. Aftermarket Components. Price changes to Aftermarket Component prices may be made in accordance with MSRP price adjustments made to the Contractor-Published Pricelist, without prior approval from Procurement Services.

F. Price Change Requests. Notification from the Contractor of a new or revised OEM Pricelist or Contractor-Published Pricelist should be made in writing thirty (30) days prior to the date the prices take effect. In order to receive approval for price changes, the Contractor must submit a completed Attachment 6: *Report of Contract Usage* and the applicable OEM Pricelist(s), identified with name and effective date, to the Procurement Services Contract administrator. OGS reserves the right to request additional information that may be needed in order to determine if the price changes are reasonable. Price changes may be requested quarterly, and will go into effect after all necessary approvals on the first day of the next quarter (e.g. January 1, April 1, July 1 and October 1). If approved, Procurement Services will notify the Contractor in writing and post the revised Contract Pricelist to the OGS website.

G. Price Increases. Procurement Services reserves the right to deny price increases that are determined, at the sole discretion of Procurement Services, to be unreasonable. Prices shall in no event exceed the MSRP included on the OEM Pricelist or Contractor-Published Pricelist, as applicable. Price increases shall not be effective until Procurement Services has notified the Contractor in writing that they have been approved.

H. Price Decreases. Notwithstanding the foregoing, when price decreases become effective on a new or revised OEM Pricelist or Contractor-Published Pricelist, the Contractor shall immediately apply the decreased price to purchases from the Contract. Prior approval for decreased prices is not required.

I. Discount Changes. The Contract discounts (i.e., Chassis Cab, Dump Body, Plow and ELP Discounts, and AOAC Discounts) ~~Base Item Discount, Chassis Cab AOAC Discount, Dump Body AOAC Discount and Plow AOAC Discount~~ may be increased by the Contractor at any time during the Contract term, but may not be decreased for the entire term of the Contract.

### III.1.10 LOWER PRICING

The State reserves the right to negotiate lower pricing, or to advertise for bids, whichever is in the State's best interest as determined by the Commissioner, in the event of a significant decrease in market price of any Product

listed. In addition, if the Contractor's normal pricing to the public or to the trade in general is less than the NYS Net Contract Price, then the normal pricing to the public or to the trade in general shall also be granted by Contractor to Authorized Users.

Price decreases to the Authorized User are permitted at any time, and do not need prior approval by Procurement Services. If, prior to the delivery of a Chassis Cab or Upfitted Truck by the Contractor, a price reduction is include in the applicable OEM or Contractor-Published Pricelist, a comparative price reduction shall be given to the Authorized User.

### III.1.11 GOVERNMENT MANDATED PROGRAM PRICE ADJUSTMENT

An adjustment in price may be permitted, upon approval by the State, if a government mandated program, (e.g., a new standard for emissions), takes effect and suitable documentation is furnished to the State and the State determines the requested price change is verifiable and is reasonable. Such a price adjustment may be permitted for only a limited time, since such an adjustment would eventually be reflected in the MSRP.

### III.1.12 UNWORKABLE PRICE STRUCTURE

Should the price structure utilized by the parties become unworkable, detrimental or injurious to the State and/or Contractor or result in prices which are not truly reflective of current market conditions, and the price is deemed unreasonable or excessive by the Commissioner, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten (10) days written notice mailed to the Contractor to terminate the Contract. If the Contractor is unable or unwilling to meet contractual requirements in whole or in part based on an unworkable price structure, it shall immediately notify the State of that fact in order that the State may take appropriate action. Such notification shall be in writing and shall be directed to the Office of General Services, Procurement Services. Such notification shall not relieve the Contractor of its responsibilities under the Contract.

The State reserves the right to implement changes in price based on unforeseen factors, (e.g., dramatic changes in Product and related supply availability, delivery, costs, etc.), that substantively affect the Contractor's business processes or that may impact Contract pricing. Such changes may be based on information from the U.S. Bureau of Labor Statistics, industry data, or other sources, and will be accepted at the sole discretion of the State.

### III.1.13 LIMITATION

Price adjustments are limited to changes as allowed for in Section III.1 *Price*. Increases in Contract costs or prices to compensate for other increases in the cost of doing business, regardless of the cause or nature of such costs to the Contractor, will not be allowed during the Contract period.

### III.1.14 REBATES

The State reserves the right to determine the disposition of any rebate settlement, restitution, liquidated damage, etc., which arise from the administration of the Contract.

## III.2 PRODUCT REQUIREMENTS

The following shall be considered minimum Product requirements. Attachment 1: *Specifications and Price Pages*, includes supplemental required specifications for Base Items in each Lot. Unless otherwise indicated, all items requested in Attachment 1: *Specifications and Price Pages* which are listed on the OEM or Contractor-Published Pricelist as standard or optional equipment for a Product provided under the Contract shall be factory installed and operative. Product delivered to an Authorized User in a condition considered to be below retail customer acceptance levels will not be accepted. Items which determine this acceptance level shall include, but not be limited to, the general appearance of the interior and exterior of the Chassis Cab, Truck Body or Upfitted Truck for completeness and quality of workmanship, lubrication and fluid levels, with any leaks corrected, mechanical operation of the vehicle and all electrical components operational. Product specified to be furnished and installed which is not available through the OEM shall conform to the best quality standards known to that particular industry, both product and installation.

### III.2.1 STANDARDS, CODES, RULES, AND REGULATIONS

Product shall be designed and assembled in accordance with all applicable industry standards. It will comply with all governmental regulations as they apply to the operation of the Chassis Cab, Truck Body or Upfitted Truck described in the specifications including, but not limited to, those listed below. If applicable, the appropriate decals indicating compliance shall be affixed to the Upfitted Truck.

A. Product shall conform to any and all applicable New York State laws, regulations and directives, including but not limited to, New York Codes, Rules and Regulations (NYCRR), New York State Vehicle and Traffic Law (NYSVTL), and New York State Dept. of Motor Vehicles (NYSDMV).

B. Product shall comply with all current applicable Federal Motor Vehicle Safety Standards (FMVSS), Federal Motor Carrier Safety Administration (FMCSA), National Highway Traffic and Safety (NHTSA), Environmental Protection Agency (EPA), and Occupational Safety & Health Administration (OSHA) requirements.

C. Product shall comply with the regulations of the Federal Government and New York State (NYCRR) governing the control of air pollution from new motor vehicles and new motor vehicle engines in effect on the date of manufacture. Please refer to NYCRR (NY Codes Rules and Regulations), Title 6 (Environmental Conservation) Part 218, Emissions Standards for Motor Vehicles and Motor Vehicle Engines.

D. Product shall be manufactured in accordance with any codes, standards and engineering practices as recommended by the following professional organizations for the specific vehicle/equipment:

American Institute of Steel Construction (AISC)
American National Standards Institute (ANSI)
American Society of Mechanical Engineers (ASME)
American Society for Testing and Materials (ASTM)
American Trucking Association (ATA)
American Welding Society (AWS)
American Wood-Preservers Association (AWPA)
Battery Council International (BCI)
British Standards Institute (BSI): Limits and Fits
Compressed Air and Gas Institute (CAGI)
Industrial Fastener Institute (IFI)
International Standards Organization (ISO)
Joint Industrial Council (JIC)
National Fire Protection Association (NFPA)
National Truck and Equipment Association (NTEA)
Power Crane and Shovel Association (PCSA)
Society of Automotive Engineers (SAE)
Society of Manufacturing Engineers (SME)
Steel Structure Painting Council (SSPC)
Tire and Rim Association (TRA)

## III.2.2 STANDARD EQUIPMENT

All items of standard equipment which are provided by the OEM shall be furnished unless such items are expressly deleted by the Authorized User or are specified to be other than standard. When Optional equipment is specified, all components listed in the OEM Pricelist as being included with the Option shall be furnished.

Example: If the standard Chassis Cab comes with air conditioning, then it must be included with the Chassis Cab provided to the Authorized User. Air conditioning cannot be deleted because it was not identified as required by the specifications.

## III.2.3 MANUALS

Simultaneous with delivery, all Product shall be furnished with standard manuals (e.g. maintenance, parts and operational manuals) as would normally accompany such Product(s). Manuals may be provided printed and bound, on CD, or at an online website. If paper manuals are provided, an Authorized User shall be able to opt not to receive extra copies of documentation when ordering multiple units. This arrangement should be agreed upon between the Contractor and the Authorized User prior to order. An Authorized User may also want to purchase additional sets of documentation, if needed. If the provision of additional sets of documentation is subject to a separate cost, the Contractor must so advise the Authorized User at the time of order. Contractor shall also ensure that the part numbers associated with this provision of additional sets of documentation are available to the Authorized User and included on the OEM or Contractor-Published Pricelist.

Further, where documentation is provided either in printed or electronic format, Authorized User shall be entitled to make copies to the extent necessary to fully enjoy the rights granted under the resulting Contract provided that the Authorized User reproduces the copyright notice and any other legend of ownership on any copies made.

## III.2.4 COMPATIBLE EQUIVALENT

Whenever an item is specified in this IFB by trade name of an OEM, the term “compatible equivalent,” if not inserted therewith, shall be implied. Any reference to a particular OEM’s product either by trade name or by limited description is solely for the purpose of more clearly indicating the minimum standard of quality desired, except where a 'no substitute' or ‘no substitution(s)’ is requested. When a 'no substitute' or ‘no substitution(s)’ is requested, Procurement Services will consider bids for the referenced Product only. The term “compatible equivalent,” is defined as meaning any other Product which, in the sole opinion of Procurement Services, is equal in performance, quality and design in such a way that the Product is directly interchangeable with the referenced Product without modification.

A Bidder quoting on a Product other than the referenced Product shall:

A. Furnish complete identification in its bid of the Product it is offering by trade name, brand and/or model number;

B. Furnish descriptive literature and data with respect to the substitute Product it proposes to furnish; and

C. Indicate any known specification deviations from the referenced Product.

## III.2.5 CHASSIS CAB, TRUCK BODY AND PLOW SUBSTITUTIONS

A Contractor shall only offer Chassis Cabs, Truck Bodies or Plows from the OEM awarded for each Lot. Under no circumstances may a Chassis Cab, Truck Body or Plow from another OEM be substituted for the OEM awarded for a Lot. For example, if the Contractor is awarded a Dump Body from OEM “Company A” for Lot IV *Truck Bodies (Single Axle Dump Body and Plow)* the Contractor may not substitute a Dump Body from OEM “Company B” for that Lot. Additional Chassis Cab, Truck Body and Plow Models may be offered under the Contract as follows. See also Section III.1.2 *Additional Chassis Cab and Truck Body Product Line Discounts*, Section III.1.3 *Additional Options and Aftermarket Components (AOAC) Discount*, Section III.2.7 *Chassis Cab, Dump Body and Plow OEM Options,* and Section III.2.8 *Aftermarket Components.*

A. Chassis Cab Substitutions. A Chassis Cab (Lots I, II and III) or Upfitted Truck Contractor (Lots VII, VIII and IX), may offer additional Chassis Cab Models under the Contract, provided that the additional Models are within the same Model series as the Base Item awarded for the applicable Lot (e.g., Model awarded is 4600, and substitute Model is 4650), and that the GVWR of the additional Model does not fall within another Lot (e.g., Lot awarded is Lot I: *Chassis Cab: Class 8, 37,000 lb. GVWR*, substitute Model GVWR is over 37,000 but under the GVWR for Lot II: *Chassis Cab: Class 8, 47,000 lb. GVWR*).

B. Truck Body Substitutions. For Truck Body Lots (Lots IV and V, excluding Lot VI *ELP Interchangeable Body Systems*), and Upfitted Truck Lots (Lots VII, VIII and IX), a Contractor may offer additional Truck Body Models under the Contract, provided that the additional Models are manufactured by the same OEM as the Model Awarded, and that Model is a Dump Body. Additional Truck Body types (e.g., stake, box or service/utility) shall not be substituted for Truck Body Lots (Lots IV and V, excluding Lot VI *ELP*

*Interchangeable Body Systems*), and Upfitted Truck Lots (Lots VII, VIII and IX). For Lot VI *ELP Interchangeable Body Systems*, the Contractor shall offer the entire ELP Product Line.

B. Plow Substitutions. For Truck Body Lots (Lots IV, V and VI), and Upfitted Truck Lots (Lots VII, VIII and IX), a Contractor may offer additional Plow Models under the Contract, provided that the additional Models are manufactured by the same OEM as the Model Awarded.

## III.2.6 EQUIPMENT, PARTS AND ACCESSORIES

All equipment, parts and accessories furnished under the Contract shall be in accordance with current standard published data book specifications, requirements, recommendations and options of the respective OEMs in addition to conforming to all Federal and State Regulations in effect at the time of delivery. Additionally:

A. All electronic systems shall be properly insulated so as to not cause any interference with the operation of the Chassis Cab or Upfitted Truck or the land mobile radio communications system, when properly installed in the Chassis Cab or Upfitted Truck.

B. Power systems must be compatible with the engine, transmission, axles, hydraulic system and power steering, etc., in order to meet the requirements specified herein.

C. Upfitted Trucks shall meet the maximum gradeability of the manufacturer when loaded to maximum GVWR without exceeding the engine manufacturer's recommended maximum revolutions per minute ("RPM") based on maximum net torque.

D. The ratio of the rear axle and transmission shall be geared to maintain a road speed of approximately sixty-five (65) mph on a level road, when operating at maximum GVWR without exceeding the recommended engine RPM figure.

E. Brakes, axles, and suspension components shall meet or exceed the specified axle rating.

F. All welds to brackets shall be high quality and show no visible signs of porosity. All OEM and fabricated brackets and braces shall be finish ground smooth, all sharp corners or edges removed, prepped, primed and painted on all sides to match their surroundings.

G. The Authorized User shall have its choice of the manufacturer’s standard paint colors, and shall designate the selection on the Purchase Order. All surfaces, including bumpers, wheels and spares which are normally painted shall be factory painted with the specified color. Equipment supplied by other than the OEM shall have any rust spots and welding slag removed, be properly sanded, cleaned, prepped and primed per the paint manufacturer’s recommendations. The Chassis Cab or Upfitted Truck shall be carefully smoothed, cleaned, primed and finished with top quality transportation enamel. Truck Bodies and auxiliary equipment shall be primed and finished with not less than two (2) coats of durable enamel in the manufacturer’s standard color specified by the Authorized User. All paint, primer, basecoats, clear coats or any other coating within the paint system shall be lead free.

H. The Chassis Cab or Upfitted Truck shall have all required rust proofing applied to the exterior and underside of the vehicle. No rustproofing compound can be on the personnel compartment's items or the exterior of the Truck Body in unsightly or unintended areas.

I. Tire size and type shall be original equipment brand or as indicated in Attachment 1: *Specifications and Price Pages*. Tire inflation monitors shall be supplied as required by Federal Motor Vehicle Safety Standard (FMVSS) 138.

J. All fuel, oil, hydraulic, and air filters shall be serviceable without interference from other Truck Body, Chassis Cab, Plow, and air & hydraulic system components. Chassis Cab Contractors and Truck Body Contractors shall coordinate filter and component placements to ensure unimpeded servicing is available;

K. Upfitted Trucks will not exceed the aggregate value of the GAWR. The GAWR of a front and rear axle assembly shall meet, or exceed, the lowest component rating thereof;

L. The Chassis Cab Contractor and Truck Body Contractor, or Upfitted Truck Contractor, as applicable, will ensure installed Truck Body components will not interfere with Chassis Cab configurations and vice versa.

M. Specifications provided by the Authorized User (e.g., Cab to Axle and Wheel Base measurements) shall be adjusted appropriately for the Upfitted Truck's intended application. See also Section III.3 *Pre-Production Meeting*.

## III.2.7 CHASSIS CAB, DUMP BODY AND PLOW OEM OPTIONS

The Contractor must offer the Chassis Cab, Dump Body or Plow bid, with all of the standard features and Options specified for the applicable Base Item in Attachment 1: *Specifications and Price Pages*.

Authorized Users may purchase the Base Item awarded and choose to have Options added or deleted. Such Options will generally be considered OEM, but may be from other suppliers that the OEM may utilize and/or may be considered part of the OEM's standard Product Line for the Chassis Cab, Dump Body or Plow. Additional Options to be offered under the Contract are limited to products that are (1) listed on the OEM or Contractor-Published Pricelist(s), and (2) may be installed on the awarded Chassis Cab or Truck Body by the Contractor, or third-party.

See Section III.1.3 *Additional Options and Aftermarket Components (AOAC) Discount* for pricing information relative to the addition and deletion of Options.

A. **Deletions**: It is anticipated that Authorized Users may delete Options that have been required by the Base Item specifications for the Chassis Cab, Dump Body or Plow involved. Contractors will be required to honor all such deletions.

B. **Additions**: It is anticipated that Authorized Users may add Options above and beyond that which have been required by the solicitation's specifications for the Chassis Cab or Truck Body involved. Contractor shall be required to honor all such additions.

C. **Thruway Package**: It is anticipated that the NYS Thruway (Thruway) will require the Thruway Package specified on Attachment 1: *Specifications and Price Pages* for Lot VI *Truck Bodies (ELP Interchangeable Body Systems)* ordered from the Contract. Contractor shall be required to honor all such additions of Thruway Packages. When a Thruway Package is specified on the Purchase Order, it shall meet the specifications listed on Attachment 1: *Specifications and Price Pages.*

D. **Replacement Parts:** It is anticipated that Authorized Users may require purchase of Options separately from a Contract Item, for replacement parts for Contract Items. Contractor shall be required to honor all such purchases. Replacement parts may not be purchased for use with Chassis Cabs, Truck Bodies and Plows that have not been purchased from the Contract.

## III.2.8 AFTERMARKET COMPONENTS

The Contractor may offer Aftermarket Components from its full Product Line, provided that the Aftermarket Component is (1) listed on the OEM or Contractor-Published Pricelist(s), and (2) may be installed on the awarded Chassis Cab or Truck Body by the Contractor, or third-party. Aftermarket Components may not be purchased for use with Chassis Cabs, Truck Bodies and Plows that have not been purchased from the Contract.

## III.2.9 AVAILABILITY OF SERVICE & REPAIR PARTS

Service and repair parts for Product on Contract must be available to Authorized users within New York State. Repair parts must be available on an on-demand basis to Authorized Users for delivery within twenty-four (24) State business hours, unless such part is nationally backordered. Additional payment for expedited orders is at the discretion of the Contractor(s), and must be mutually agreed upon prior to shipment.

## III.2.10 ADVERTISING

No name, trade mark, decal or other identification, other than that of the OEM, shall be applied to the Chassis Cab or Upfitted Truck without prior approval by the Authorized User. Identification of the Contractor shall not be attached to the Chassis Cab or Upfitted Truck. Splash guards shall be plain (without lettering) unless done so in compliance with this solicitation's specification. In any instance of violation of these restrictions the cost to the State for removal of such advertising will be deducted from Contractor's outstanding voucher.

### III.2.11 DMV INSPECTION

Unless otherwise instructed by the Authorized User, all Chassis Cabs must be delivered with complete NYS Inspections. In the event that a Chassis Cab is delivered uninspected, $250 will be deducted from the invoice by the Authorized User to cover the cost of the inspection and to compensate for time. The State reserves the right to cancel a Contract and/or take other action if Chassis Cabs are not properly inspected or if the New York State Department of Motor Vehicles inspection sticker is not properly affixed to a Chassis Cab.

## III.3 PRE-PRODUCTION MEETING

Contractors shall be required to consult with the Authorized User upon receipt of a Purchase Order in order to ensure complete and accurate understanding of the Chassis Cab, Truck Body and Upfitted Truck specifications, and delivery requirements, required by the Authorized User. The contractor shall advise the Authorized User of all design changes, including component style or performance changes, which the applicable Base Item has undergone since Contract execution.

It is understood that it is the responsibility of the Contractor to advise the Authorized User prior to production if the Chassis Cab, Truck Body and Plow specifications that they have provided will result in an improperly rated Upfitted Truck (e.g., due to its particular weight distribution), and to recommend the proper equipment and Options that will meet the Authorized User's needs.

The Contractors for Chassis Cab Lots (Lots I, II, and III) and Truck Body Lots (Lots IV, V, and VI) shall coordinate and attend a pre-production meeting, if required by the Authorized User, at a location convenient to the Authorized User, to provide all necessary information prior to building any Upfitted Truck, or scheduling production. Only after the pre-production meeting, if required by Authorized User, and subsequent approval from the Authorized User, shall the Contractor begin the production.

## III.4 PILOT MODEL INSPECTION

Prior to completion of all Chassis Cab and Upfitted Trucks ordered, a complete pilot model inspection of one or more Chassis Cab or Upfitted Trucks shall be provided by the Contractor if requested by the Authorized User. The terms and conditions of such inspection(s) shall be provided by the Authorized User, and should be agreed upon by the Contractor and Authorized User prior to scheduling production. This inspection shall take place inside a building and on a dry Chassis Cab or Upfitted Truck at the OEM's facility or Contractor's place of business, as agreed to by the Authorized User. The Authorized User shall be responsible for transportation, lodging and meals associated with the initial pilot model inspection. The Authorized User, at their discretion, may require that the Contractor cover the costs of subsequent pilot model inspections should the pilot model not pass the initial inspection.

## III.5 DELIVERY

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a Purchase Order (After Receipt of Order ("ARO")). All Chassis Cab and Upfitted Trucks must be delivered within the number of days previously agreed upon by the Contractor and Authorized User, after receipt of the Purchase Order by the Contractor. Failure to deliver within the previously agreed upon time period shall result in payment of liquidated damages in accordance with Section III.5.1 *Liquidated Damages*.

Delivery shall be made in accordance with instructions on the Purchase Order from each Authorized User. It shall be assumed by the parties that the Contractor received the Purchase Order on the third business day following the date of the Purchase Order, unless the Contractor provides credible evidence that the order was received on a later date. If there is a discrepancy between the Purchase Order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from Procurement Services.

### III.5.1 CHASSIS CAB DELIVERY TO TRUCK BODY CONTRACTOR

The Chassis Cab Contractor(s) awarded Lot I, II, or III shall be responsible for delivery to the Truck Body Contractor(s) awarded Lot IV, V, or VI, or other delivery location specified by the Authorized user. The Chassis Cab Contractor agrees to bear the risk of loss, injury, or destruction of the Item(s) ordered prior to receipt of the Items by

the Truck Body Contractor, or other delivery location specified by the Authorized user. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations.

The Chassis Cab Contractor shall secure a signed receipt from the Truck Body Contractor, or other delivery location specified by the Authorized User, certifying delivery of the Chassis Cab and the odometer reading. In the event deficiencies are later noted and a properly signed receipt cannot be found, Chassis Cab Contractor will be responsible for certifying delivery and odometer reading.

### III.5.2 UPFITTED TRUCK DELIVERY TO AUTHORIZED USER

The Truck Body Contractor(s) awarded Lots IV, V, and VI, and the Upfitted Truck Contractor(s) awarded Lots VII, VIII and IX, shall be responsible for final Product delivery to the Authorized User. The Truck Body or Upfitted Truck Contractor, as applicable, agrees to bear the risk of loss, injury, or destruction of the Item(s) ordered, including the Chassis Cab after receipt from the Chassis Cab Contractor, prior to receipt of the Upfitted Truck by the Authorized User. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations.

The Truck Body Contractor shall secure a signed receipt from the Authorized User, certifying delivery of the Upfitted Truck and odometer reading. In the event deficiencies are later noted and a properly signed receipt cannot be found, the Truck Body Contractor will be responsible for certifying delivery and odometer reading.

### III.5.3 DOT AND THRUWAY UPFITTED TRUCKS DELIVERY

NYS Department of Transportation (DOT) and NYS Thruway (Thruway) Upfitted Trucks provided under the Contract from Lot VII: *DOT Upfitted Trucks (Class 8, 47,000 & 66,000 lb. GVWR, with Dump Body and Plow),* Lot VIII *Thruway Upfitted Truck Class 8, 37,000 GVWR, with Dump Body and Plow* and Lot IX *Thruway Upfitted Truck Class 8, 66,000 lb. GVWR, with ELP Dump Body and Plow,* or other Lots, shall be delivered to DOT and Thruway locations. DOT and Thruway may stagger the delivery of these vehicles over a period of time, and require delivery to multiple locations. For example, order forty (40) Upfitted Trucks with instructions to deliver four (4) Upfitted Trucks to each of the ten (10) DOT delivery locations listed below over a period of time.

Following are the current DOT delivery locations for each DOT Region:

| | |
|---|---|
| Region 1: | 21 Ninth Street, Waterford, NY 12188 |
| Region 2: | 10 Harbor Lock Road (West), Utica, NY 13502 |
| Region 3: | 5450 South Bay Road, North Syracuse, NY 13212 |
| Region 4 | 2797 Clover Street, Pittsford, NY 14534 |
| Region 5 | 4717 South Western Blvd., Hamburg, NY 14075 |
| Region 6: | 7000 County Route 70A (mailing), Hornell, NY 14843<br>Route 36 & County Route 70A (shipping), Hornell, NY 14843 |
| Region 7: | Box 22422, Route 342, Watertown, NY 13601 |
| Region 8: | 272-278 Violet Avenue, Poughkeepsie, NY 12601 |
| Region 9: | 241 Colesville Road, Binghamton, NY 13904 |
| Region 10: | 375 North Carleton Avenue, Central Islip, NY 11722 |

Following are the current Thruway delivery locations for each Thruway Division:

| | |
|---|---|
| Albany: | 200 Southern Blvd., P.O. Box 189, Albany, NY 12201-0189 |
| Buffalo: | 455 Cayuga Road, Suite 800, Cheektowaga, NY 14225-0121 |
| Suffern: | Suite 400, 4 Executive Blvd., Suffern, NY 10901 |
| Syracuse | Suite 250, 2nd Floor, 290 Elwood Davis Road, Liverpool, NY 13088-0308 |

### III.5.4 EXPANSION OF DELIVERY POINTS

Upon mutual agreement, delivery locations may be expanded per Section II.16 *Non-State Agencies Participation in Centralized Contracts*, Section II.17 *Extension of Use* and Section II.18 *Extension of Use Commitment*, incorporated herein.

## III.5.5 PRE-DELIVERY INSPECTION

At the discretion of the Authorized User, the Contractor may be required to present a Chassis Cab or Upfitted Truck for pre-delivery inspection. The terms and conditions of such inspection(s) shall be provided by the Authorized User, and should be agreed upon by the Contractor and Authorized User prior to scheduling production. This inspection shall take place inside a building and on a dry Chassis Cab or Upfitted Truck at the OEM's facility or Contractor's place of business, as agreed to by the Authorized User. When so required, the Contractor shall make no delivery of a Chassis Cab or Upfitted Truck without written approval of the Authorized User.

The Contractor shall notify the Authorized User by that the Chassis Cab or Upfitted Truck is ready for inspection. Within five (5) working days of the Contractor's notification, the Authorized User will send a team of qualified inspectors to the Contractor's facility, or another mutually agreed upon location convenient to the Authorized User, to accomplish the inspection of the Chassis Cab or Upfitted Truck before delivery. Upon the inspector's arrival at the facility, the Contractor will assign a mechanic, a runner and a delivery bay to the inspector. It is the Contractor's responsibility to properly itemize, organize and segregate all Chassis Cab or Upfitted Trucks. The above areas of responsibility must be accomplished in order to facilitate an expeditious and orderly inspection flow. This will also allow discrepancies to be corrected while the inspector is located at the Contractor's facility.

Inspected Chassis Cab or Upfitted Trucks which do not comply with these or other requirements will be rejected. All rejected Product will be corrected and the corrected Product will be presented for re-inspection within ten (10) working days. The Authorized User may cancel the Purchase Order if the Contractor fails to correct any problem, without incurring any cost or fee.

## III.5.6 CONDITION ON DELIVERY

Chassis Cab and Upfitted Trucks must be delivered strictly in accordance with the Contract specifications and shall be "Ready for Use", and/or as requested by the Authorized User. If a Chassis Cab or Upfitted Truck is delivered with minor deviations or improper servicing, the Contractor must arrange to have the necessary corrective work performed within five (5) days (exclusive of Saturdays, Sundays and Federal or NYS Holidays) after receipt of written notification from the Authorized User and/or Procurement Services. If Contractor cannot arrange to have the necessary work done within such time period, the corrections shall be made by an entity of the Authorized User's choosing and Contractor will be required to reimburse the Authorized User for this expense within thirty (30) calendar days of request.

Each Chassis Cab and Upfitted Truck and its components shall be completely assembled, serviced and ready for use when delivered to the Authorized User. Unless specified otherwise; any parts, components, equipment, controls, materials, features, performances, capacities, ratings or designs which are standard and/or necessary to form an efficient and complete working Upfitted Truck shall be furnished whether specifically required herein or not. Additionally, each Chassis Cab or Upfitted Truck:

A. At point of acceptance, shall have an odometer reading that is consistent with the miles, in distance, to the anticipated odometer mileage incurred between the OEM factory, the Contractor's place of business and the point of delivery. *Note: In the event that a Chassis Cab or Upfitted Truck is delivered with an odometer reading that the Authorized User considers to be excessive, the Contractor shall be required to provide a reasonable explanation for the odometer reading. Chassis Cabs or Upfitted Trucks that are delivered with an odometer reading that is considered excessive without a reasonable explanation may be rejected. Chassis Cabs shall only be used for transport of other Chassis Cabs (e.g., as "mule" trucks), that are included in the Authorized User's delivery.*

B. Shall include the proper forms to apply for a NYS title and license. These forms will include: the original manufacturer's statement of origin signed by the Contractor, and notarized. All title papers shall be properly prepared and executed.

C. Shall be certified to meet or exceed requirements to obtain a NYS license. The GVWR shall be identified in the Chassis Cab as the final complete certification label (minimum rating). The Gross Combined Weight Rating (GCWR) shall be identified by decal in the cab to indicate the approved weight, which can be towed, if applicable.

D. Shall include the proper forms to apply for a NYS registration. These forms shall include:

1. Required from Contractors in New York State: MSO (Manufacturer's Statement of Origin), MV50 Retail Certificate of Sale (except for trailers with an unladen weight under 1,000 lb.), and MV82 (Vehicle Registration/Title Application); or
2. Required from Contractors outside New York State: Manufacturer's Certificate or Statement of Origin, and Odometer Disclosure Statement (This is not required if the Manufacturer's Certificate/Statement of Origin includes the odometer disclosure.)

E. Shall have a valid NYS state inspection sticker and a valid NYS emissions inspections sticker. All NYS state inspection requirements are the sole responsibility of the Contractor.

F. Shall have the OEM's recommended pre-delivery service completed.

G. Shall have the Chassis Cab OEM's model name and model number stated on a decal affixed to the inside of the driver's side door.

H. Shall be clean, lubricated, serviced, fuel gauge registering no less than one half recommended capacity, all adjustments completed, all mechanical and electrical motors and components fully functional and operational, and the vehicle will be "road ready" for immediate use.

I. Shall have permanent antifreeze in each vehicle to protect it at a level of -34 °F. Only a low silicate type anti-freeze will be used for vehicles having diesel engines.

J. Shall be free from all dealer signs/emblems. See Section III.2.10 *Advertising*.

K. Shall include a copy of the OEM warranty and service policy with all warranty vouchers, certificates and coupons. Delayed warranty forms are to be provided with the required motor vehicle paper work.

L. Shall have each Chassis Cab, Truck Body, and other applicable components identified with a metal identification tag that provides the OEM's name, model number and individual serial number. Tags will be affixed in an accessible and readable position on the item.

M. Shall include a bill of materials or line-setting ticket. The bill of materials shall list by part number, capacity, size or otherwise, all major components of the Upfitted Truck (engine, frame, transmission, drive line, axles, alternator, storage battery, fuel tank, etc.). The bill of materials shall be at least as comprehensive as the OEM's line-set ticket.

N. If towed to the Authorized User for delivery, the towing device may not be attached in such a way that holes are drilled in the bumper of the vehicle being towed. Drilling of holes in the vehicle bumpers is not permitted. Any bumper damage caused by a towing device will be replaced by the Contractor at no charge to the Authorized User. If a vehicle is being towed by another vehicle, the vehicle being towed must have the drive shaft disconnected to eliminate unnecessary mileage.

The above items are pre-delivery service items, and Contractors should not misconstrue these requirements with warranty problems that arise after the Authorized User accepts the completed unit which complies with the written specifications.

All charges for any of the aforementioned administrative and technical services and equipment are considered minimum acceptable requirements for delivery and shall be included in the bid price.

## III.5.7 POST DELIVERY INSPECTION

After Chassis Cab and Upfitted Trucks have been delivered to the location as stated on the Purchase Order, a post-delivery inspection will be performed by the Authorized User. The report written at the pre-delivery inspection will be used to verify that any deficiencies have been corrected. If any deficiencies remain it is the responsibility of the Contractor to rectify them.

## III.5.8 SHIPPING DATES AND DELIVERY TIME

The following provisions for shipping dates and delivery time shall apply:

A. Contractor shall provide written acknowledgement of orders within five (5) business days after receipt of order.

B. Contractor shall provide ordering Authorized User with anticipated shipping date of completed Chassis Cab or Upfitted Truck with written acknowledgement of order.

C. Contractor shall furnish the Authorized User with written acknowledgement of the shipping date at least fourteen (14) calendar days prior to shipment.

D. For Lot VII *DOT Upfitted Trucks (Class 8, 47,000 & 66,000 lb. GVWR, with Dump Body and Plow),* delivery time will be considered in making Contract award. Delivery of all Upfitted Trucks ordered in the first year of the contract is required by September 15, 2016 and delivery of Upfitted Trucks ordered in subsequent years is required by September 15 of the year following Contractor receipt of the Purchase Order. If DOT does not issue a Purchase Order by September 15 of any given year, the Contractor will have one (1) year from the actual Purchase Order date to deliver all Upfitted Trucks ordered.

E. If shipment will not be made within the delivery time, the Contractor is required to notify the Authorized User in writing within one (1) business day of when Contractor knows the shipment will not be made within the delivery time. This notification must include the reasons for the delay and the latest date the Vehicle will be shipped. Should the delay not be acceptable to the Authorized User, appropriate contract default proceedings will be initiated under Section III.5.9 *Default On Delivery*. Failure to supply timely written notification of delay may be cause for default proceedings.

F. All correspondence on shipping dates and delivery time shall be directed to the ordering Authorized User's contact person.

## III.5.9 DEFAULT ON DELIVERY

If during the Contract period an Authorized User has issued a Purchase Order for a Base Item, and a Chassis Cab, Dump Body or Plow included in that Base Item becomes unavailable or cannot be supplied for any reason (except as provided for in Appendix B §48 *Savings/Force Majeure*), following the issuance of the Purchase Order, a substitute Chassis Cab, Dump Body or Plow ~~Base Item~~ deemed by Procurement Services to be equivalent to the specifications for the Chassis Cab, Dump Body or Plow ~~Base Item~~ in the resultant Contract(s), must be supplied by Contractor if requested by the Authorized User. The price for substitute Chassis Cab, ~~Truck~~ Dump ~~Bodies~~ Body ~~and~~ or ~~Upfitted Trucks~~Plow shall be equal to or less than the ~~Base Item Unit~~Chassis Cab, Dump Body or Plow Price for the Item in the resultant Contract(s).

Alternatively, the Authorized User may, at their sole discretion, cancel the order and purchase the Chassis Cab, Truck Body or Upfitted Truck from other sources. In such event the Contractor shall reimburse the Authorized User for all excess costs over the Contract price.

## III.5.10 LIQUIDATED DAMAGES

In the event of a delay or default in the delivery timeframe previously agreed upon by the Contractor and the Authorized User, the Authorized User shall be entitled to and shall assess against the Contractor as liquidated damages and not by way of penalty, a sum calculated as follows:

Two hundred and fifty dollars ($250) per seven (7) calendar day period, per Chassis Cab or Upfitted Truck to compensate for delay, and other loses, detriments and inconveniences attendant upon such delay from the end of the grace period commencing from the time delivery was due as specified on the Purchase Order. A grace period of seven (7) calendar days commencing on and including the Purchase Order date for delivery shall be extended to the vendor prior to the assessment of such liquidated damages. Notice is hereby given to the vendor that, despite the extensions of the grace period herein specified, time shall be of the essence in regard to delivery of the Upfitted Truck.

Liquidated damages, if assessed, shall be deducted from the Purchase Order price for each Chassis Cab or Upfitted Truck delivered against such Purchase Order.

## III.6 GENERAL WARRANTY REQUIREMENTS

The Contractor shall warrant the Chassis Cab, Truck Body, Plow and Aftermarket Components against parts failure or malfunction due to design, construction or installation errors, defective workmanship, and missing or incorrect parts. Warranty service shall be available within New York State, and shall be honored by all the manufacturer's dealers in New York State. The Authorized User shall be responsible for all transportation, pick-up and delivery for any Chassis Cabs or Upfitted Trucks procured under the Contract requiring warranty service, unless otherwise agreed upon by the Contractor. Additional payment for delivery and/or pickup by the Contractor is at the discretion of the Contractor(s), and must be mutually agreed upon prior to service.

The warranty period for all coverage shall begin on the date the Chassis Cab or Upfitted Truck is accepted by the Authorized User or put in service, whichever occurs later. Delayed warranty forms are to be provided with the required motor vehicle paper work. Where Chassis Cab or Upfitted Trucks develop Chronic Failures during the warranty period, Contractor shall extend the warranty period for an equal period of time following correction of such failures, as indicated in the original warranty.

The Contractor will be responsible for all warranty claims related to the Chassis Cab or Truck Body, including all Plow and Aftermarket Components as provided by the Contractor at the time of delivery. All components supplied by the Contractor shall be included and covered by the basic Chassis Cab, Truck Body, Plow or Aftermarket Component warranty. OEM replacement parts are to be new, not remanufactured, unless the OEM has specified that a replacement part be remanufactured, or prior approval has been granted by the Authorized User. All warranties will cover all labor and parts replacement during the warranty period. Normal wear and tear items will be warranted in accordance with manufacturer’s standard warranty. Parts replaced under this warranty will be of OEM quality or higher. Service will be at a level to maintain or meet the manufacturer’s requirements to sustain the warranty. See Appendix B §59 *Warranties*. The Contractor shall furnish with each repaired vehicle an information sheet that indicates the type of warranty work performed, parts replaced, and number of labor hours involved.

The warranty requirements stated for each Base Item on Attachment 1: *Specifications and Price Pages* are considered minimum. If the manufacturer's standard warranty exceeds the specified warranty, or if a minimum warranty requirement is not stated in Attachment 1: *Specifications and Price Pages*, the manufacturer's standard warranty shall apply. Whenever extended warranty packages are being promoted by the factory at "No Additional Charge," they shall be extended to all Contract purchases. Manufacturer's warranty shall be provided in written or electronic form to the Authorized User.

### III.6.1 WARRANTY REPAIR BY AUTHORIZED USERS

Warranty repairs performed by the Authorized User shall be reimbursed at the Contractor’s standard flat reimbursement rates. Rates shall be provided at the request of OGS or the Authorized User. Understanding that the State of New York shop must be “certified” to perform and be reimbursed for warranty repairs, the Contractor will provide documentation that details the qualifications required in order for ~~of~~ Authorized User maintenance repair facilities to become certified. If not currently available, the Contractor will ~~and~~ document the potential for this type of infrastructure to develop. The Authorized User shall be responsible for all costs associated with becoming certified.

## III.7 POST-DELIVERY SERVICE

Post-delivery service by authorized representatives of the Chassis Cab, Truck Body, Plow and Aftermarket Components OEMs must be available within New York State for Product awarded in all Lots. Post-delivery service shall be performed in a modern, properly equipped service shop.

An Authorized User shall have the right to utilize any service location for post-delivery service. If requested by an Authorized User, the Contractor shall assist the Authorized User in locating a servicing Dealer.

The Contractor is responsible for any warranty service/repair/recall, which will be at Contractor's own expense. In the event that a warranty service/repair/recall is for an Aftermarket Component, the Contractor shall be the primary point of contact, and will assist the Authorized User with the warranty service/repair/recall. Events beyond Contractor's control, such as lack of parts due to strikes and unforeseen acts of God, shall constitute valid reasons for delay in making necessary repairs. However, the State shall make such determination.

## III.8 TRAINING

Complete instructions on the operation and maintenance of each Chassis Cab and Upfitted Truck, and a demonstration on the operation of the unit shall be given by the Contractor, if requested by the Authorized User Training is to include operator training with instruction on proper operation of the unit, safety, preventive maintenance and proper usage of parts and service manuals. Training provided must be sufficient to update technician(s) on all new componentry and diagnostics capabilities.

The Contractor shall provide the training services of qualified factory technician(s) for a minimum period of one (1) full working day, at one mutually agreed-upon location (e.g., at the location of delivery or at a field location within the State), at no additional charge. Additional training days and/or locations shall be provided upon request by the Authorized User. The Contractor may charge a mutually agreed-upon fee for any additional training days and/or locations.

One (1) copy of training programs (DVD or CD format) and/or PowerPoint presentations covering all or any part of the Chassis Cab, Truck Body or Upfitted Truck, that are normally available from the OEM, shall be provided to the Authorized User at no additional charge.

## III.9 REPLACEMENT ITEMS

The State may permit the Contractor to offer a replacement model or a replacement Product Line if the model series or the Product Line originally awarded is discontinued, replaced, or made unavailable by the OEM. Pricing for such replacement items shall be based on the current OEM Pricelist for the replacement item and the previously agreed upon Contract discounts.

## III.10 SERVICE/TECHNICAL BULLETINS AND RECALLS

The Contractor must immediately notify Procurement Services of any service/technical bulletins and recall notices pertaining to Base Items. These documents shall be submitted on a continual basis to keep the State informed regarding improvements, changes and/or problems concerning State owned vehicles and their component parts.

## III.12 INTERNET ACCESS TO CONTRACT AND PRICING INFORMATION

Access by Authorized Users to Contract terms and pricing information shall be made available and publically posted on the OGS website. To that end, OGS shall publically post the Contract Pricelist, including all subsequent changes in the Contract offerings (adds, deletes, price revisions), Contractor contact information, and the Contract terms and conditions, throughout the Contract term.

## III.13 CONTRACT CANCELLATION

If a Contract is cancelled, the State reserves the right to make award on another bid meeting requirements, but is not obligated to do so. If the cause of cancellation was out of the control of the vendor, no penalties or damages will be assessed.

## III.14 PROCUREMENT INSTRUCTIONS

Authorized Users should follow the following procurement instructions when purchasing Product from the Contract(s).

A. When utilizing the Contract(s), the Authorized User should be familiar with and follow the terms and conditions governing its use. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User, when purchasing from OGS contracts, should hold the Contractor accountable for Contract compliance and meeting the Contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible. Authorized Users have the responsibility to document purchases which should include:

- A statement of need and associated requirements;
- Obtaining all necessary prior approvals;
- A summary of the Contract alternatives considered for the purchase; and

- The reason(s) supporting the resulting purchase (e.g., show that basis for the selection among multiple Contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

B. The resultant Contracts for Chassis Cab Lots (Lots I, II and III), and Truck Body Lots (Lots IV and V, excluding Lot VI *ELP Interchangeable Body Systems*), are tiered. Executive Agencies are required to purchase from the Primary Chassis Cab or Truck Body Contractor, as applicable, unless written justification for purchasing from the Secondary Chassis Cab or Truck Body Contractor is approved by the Department of Budget, OGS or other control agency. Authorized Users, other than Executive Agencies, are encouraged to purchase from the Primary Chassis Cab or Truck Body Contractor. Awarded Contractors' Product offerings, Contract and pricing information will be posted to the OGS website.

C. Authorized Users will issue Purchase Order(s), as described in Section II.13.1 *Purchase Orders*, directly to the Contractor(s), specifying the Product required and shipping/delivery requirements.

D. Before proceeding with their purchase, Authorized Users should arrange a pre-production meeting with the Contractors(s) in order to ensure complete and accurate understanding of the Upfitted Truck specifications, and delivery requirements, that are required by the Authorized User.

E. Upon Authorized User acceptance of Product itemized on the Purchase Order, Contractor(s) will invoice Authorized User for any portion of Product, and accordingly, Authorized User will arrange for payment.

Note: Contractor must disclose any forms, or other order information, that Contractor will attach to orders or require completion of when Authorized User makes a purchase. Documents which contain additional terms and conditions must receive pre-approval by OGS for use under the Contract. Additional terms and conditions that were not pre-approved by OGS are void. Additional terms and conditions which conflict with the Contract shall be removed at the discretion of the State.

# SECTION IV: METHOD OF AWARD

This section sets forth the method of award for the solicitation.

## IV.1 AWARD OVERVIEW

As specified in Section I.2 *Scope*, Table 1: *List of Lots and Number of Awardees*, the IFB includes nine (9) Lots, which may each receive up to one (1) or two (2) awards. Chassis Cab Lots (Lots I, II and III), and Truck Body Lots (Lots IV and V, excluding Lot VI *ELP Interchangeable Body Systems*), may each receive up to two (2) awards, with one Primary Contractor and one secondary Contractor. Lot VI *ELP Interchangeable Body Systems*, and Upfitted Truck Lots (Lots VII, VIII and IX), may each receive up to one (1) award. The Lots shall be awarded on the basis of lowest price, to a responsive and responsible Bidder, as set forth below.

Awards will be based on a combination of Total Base Item Evaluation Price, Total Chassis Cab AOAC Evaluation Price, Total Dump Body AOAC Evaluation Price, Total Plow AOAC Evaluation Price, and Total Delivery Evaluation Price (as applicable to each Lot). The examples below in Section IV.2 *Total Base Item Evaluation Price Calculation* indicate the calculations for each Lot. Included with the specifications for each Base Item is an Evaluation Quantity. This value is for evaluation purposes only, and is based on historic sales and anticipated future needs. The Evaluation Quantity is NOT a guaranteed purchase under the resultant Contract(s). See also Section I.8 *Estimated Quantities*.

In the event that a Chassis Cab included in a Base Item (i.e., for Chassis Cab Lots and Upfitted Truck Lots) has reached Final Order Due Date prior to Contract Award and is no longer available, the awarded Contractor shall provide the Base Item using next Model Year pricing, or current Model Year pricing as set forth in Bidder's bid, whichever is less.

### IV.1.2 CHASSIS CAB LOTS (LOTS I, II AND III)

Contract awards shall be made for Chassis Cab Lots (identified by the blue-colored tabs set forth in Attachment 1: *Specifications and Price Pages*, and titled Lot I: *Chassis Cab (Class 8, 37,000 lb. GVWR),* Lot II *Chassis Cab (Class 8, 47,000 lb. GVWR*), and Lot III *Chassis Cab (Class 8, 66,000 lb. GVWR)*), to the two (2) responsive and responsible Bidders representing two (2) different OEM's Chassis Cabs as set forth below. Grand Total For Lot is calculated in accordance with Section IV.4 *Grand Total For Lot Calculation.* OGS reserves the right to award to only the responsive and responsible Bidder with the lowest Grand Total For Lot, if it is determined that it is in the best interest of the State.

A. Primary Chassis Cab Contractor. The Bidder with the lowest Grand Total For Lot will be the Primary Chassis Cab Contractor

B. Secondary Chassis Cab Contractor. The Bidder with the lowest Grand Total For Lot amongst the Bidders representing a different OEM than the Primary Chassis Cab Contractor, will be the Secondary Chassis Cab Contractor. OGS reserves the right to not award a Secondary Chassis Cab Contractor if it is determined that the percentage gap between the Grand Total For Lot for the Primary and Secondary Chassis Cab Contractors is unreasonable.

### IV.1.3 TRUCK BODY LOTS (LOTS IV AND V)

Excluding Lot VI: *Truck Bodies (ELP Interchangeable Body Systems),* Contract awards shall be made for Truck Body Lots (identified by the red-colored tabs set forth in Attachment 1: *Specifications and Price Pages*, and titled Lot IV: *Truck Bodies (Single Axle Dump Body and Plow)* and Lot V *Truck Bodies (Tandem Axle Dump Body and Plow)*), to the two (2) responsive and responsible Bidders representing two (2) different OEM's Truck Bodies as set forth below. Grand Total For Lot is calculated in accordance with Section IV.4 *Grand Total For Lot Calculation.* OGS reserves the right to award to only the responsive and responsible Bidder with the lowest Grand Total For Lot, if it is determined that it is in the best interest of the State.

A. Primary Truck Body Contractor. The Bidder with the lowest Grand Total For Lot will be the Primary Truck Body Contractor

B. Secondary Truck Body Contractor. The Bidder with the lowest Grand Total For Lot amongst the Bidders representing a different OEM than the Primary Truck Body Contractor, will be the Secondary Truck Body Contractor. OGS reserves the right to not award a Secondary Truck Body Contractor if it is determined that the percentage gap between the Grand Total For Lot for the Primary and Secondary Truck Body Contractors is unreasonable.

### IV.1.4 TRUCK BODY LOT VI: (ELP INTERCHANGEABLE BODY SYSTEMS)

A single Contract award shall be made for Lot VI, (identified by the red-colored tab set forth in Attachment 1: *Specifications and Price Pages*, and titled Lot VI: *Truck Bodies (ELP Interchangeable Body Systems)*), to the responsive and responsible Bidder representing ELP Interchangeable Body Systems with the lowest Grand Total For Lot. Grand Total For Lot is calculated in accordance with Section IV.4 *Grand Total For Lot Calculation.*

### IV.1.5 UPFITTED TRUCK LOTS (LOTS VII, VIII, AND IX)

A single Contract award for each Upfitted Truck Lot, (identified by the green-colored tabs set forth in Attachment 1: *Specifications and Price Pages*, and titled Lot VII: *DOT Upfitted Trucks (Class 8, 47,000 & 66,000 lb. GVWR, with Dump Body and Plow)*, Lot VIII *Thruway Upfitted Truck Class 8, 37,000 GVWR, with Dump Body and Plow* and Lot IX *Thruway Upfitted Truck Class 8, 66,000 lb. GVWR, with ELP Dump Body and Plow*, to the responsive and responsible Bidder with the lowest Grand Total For Lot. Grand Total For Lot is calculated in accordance with Section IV.4 *Grand Total For Lot Calculation.*

## IV.2 TOTAL BASE ITEM EVALUATION PRICE CALCULATION

The Total Base Item Evaluation Price is calculated as follows:

### IV.2.1 TOTAL BASE ITEM EVALUATION PRICE CALCULATION: CHASSIS CAB AND TRUCK BODY LOTS (EXCLUDING LOT VI: *TRUCK BODIES (ELP INTERCHANGEABLE BODY SYSTEMS)*)

The Total Base Item Evaluation Price for each Base Item in each Chassis Cab (Lots I, II and III) and Truck Body Lot (Lots IV and V, excluding Lot VI: *Truck Bodies (ELP Interchangeable Body Systems)*), is a combination of the ~~Total~~ Base Item MSRP(s) (Chassis Cab, Dump Body and Plow, as applicable) and Base Item Discounts (Chassis Cab, Dump Body and Plow, as applicable), weighted by the Evaluation Quantity. Set forth below is an example of how the Total Base Item Evaluation Price is calculated for each Chassis Cab and Truck Body Base Item in Attachment 1: *Specifications and Price Pages* (excluding Lot VI: *Truck Bodies (ELP Interchangeable Body Systems)*). A Bidder enters the amounts highlighted in grey below (Note: these cells are highlighted in yellow in Attachment 1: *Specifications and Price Pages*).

A. Chassis Cab Lots (Lots I, II, and III)

The mathematical calculation illustrated in the table below is as follows: Evaluation Quantity (2) x Base Item Unit Price [~~Total Base Item~~Chassis Cab MSRP ($82,000.00) x (1-[~~Base Item~~Chassis Cab Discount (7.00)] divided by 100) = $76,260.00] = $152,520.00.

| Example Price Calculation for Total Base Item Evaluation Price (all Chassis Cab~~) and Truck Body Lots, excluding Lot VI)~~ | | |
|---|---|---|
| **Evaluation Quantity** | Evaluation Quantity based on historic sales and anticipated future needs; this is NOT a committed purchase | 2 |
| **~~Total Base Item~~Chassis Cab MSRP** | Per unit dollar amount of the Chassis Cab bid; must include all equipment listed in the Base Item specifications for this Item | **$82,000.00** |
| **~~Base Item~~Chassis Cab Discount** | Percent (%) discount from MSRP. ***Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number*** | **7.00** |
| **Base Item Unit Price** | Automatically calculated: Chassis Cab MSRP minus ~~Base Item~~Chassis Cab Discount | $76,260.00 |
| **Total Base Item Evaluation Price** | Automatically calculated: Evaluation Quantity multiplied by the Base Item Unit Price | $152,520.00 |

B. Truck Body Lots (Lots IV and V, excluding Lot VI)

The mathematical calculation illustrated in the table below is as follows: Evaluation Quantity (2) x Base Item Unit Price [Dump Body Price ($61,100.00) plus Plow Price ($28,800.00) = $89,900.00]. The Dump Body Price is calculated as follows: Dump Body MSRP ($65,000.00) x (1-[Dump Body Discount (6.00)] divided by 100) = $61,100.00]. The Plow Price is calculated as follows: Plow MSRP ($30,000.00) x (1-[Plow Discount (4.00)] divided by 100) = $28,800.00].

| Example Price Calculation for Total Base Item Evaluation Price (all Truck Body Lots, excluding Lot VI) | | |
|---|---|---|
| **Evaluation Quantity** | Evaluation Quantity based on historic sales and anticipated future needs; this is NOT a committed purchase | 26 |
| **Dump Body MSRP** | Per unit dollar amount of the Dump Body; must include all equipment listed in the Base Item specifications for this Item | **$65,000.00** |
| **Dump Body Discount** | Percent (%) discount from MSRP. **Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number.** | 6.00 |
| **Dump Body Price** | Automatically calculated: Dump Body MSRP minus Dump Body Discount | $61,100.00 |
| **Plow MSRP** | Per unit dollar amount of the Plow bid; must include all equipment listed in the Base Item specifications for this Item | $30,000.00 |

| | | |
|---|---|---|
| **Plow Discount** | Percent (%) discount from MSRP. **Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number.** | 4.00 |
| **Plow Price** | Automatically calculated: Plow MSRP minus Plow Discount | $28,800.00 |
| **Base Item Unit Price** | Automatically calculated: Dump Body Price plus Plow Price | $89,900.00 |
| **Total Base Item Evaluation Price** | Automatically calculated: Evaluation Quantity multiplied by the Base Item Unit Price | $152,520.00 |

### IV.2.2 TOTAL BASE ITEM EVALUATION PRICE CALCULATION (LOT VI: *TRUCK BODIES (ELP INTERCHANGEABLE BODY SYSTEMS)*)

The Total Base Item Evaluation Price for Lot VI: Truck Bodies *(ELP Interchangeable Body Systems)* is a combination of an Evaluation Dollar Amount for ELP Interchangeable Body Systems, ELP Discount, Thruway Package Evaluation Price and Plow Package Evaluation Price, weighted by the Evaluation Quantity. Set forth below is an example of how the Total Base Item Evaluation Price is calculated for Lot VI in Attachment 1: *Specifications and Price Pages.* A Bidder enters the amount highlighted in grey below (Note: this cell is highlighted in yellow in Attachment 1: *Specifications and Price Pages*).

The mathematical calculation illustrated in the table below is as follows: [Evaluation Quantity (14) x ELP Evaluation Price] + Thruway Package Price ($25,480.00) + Plow Package Evaluation Price ($568,400.00) = $1,396,640.00. The ELP Evaluation Price is calculated as follows: Evaluation Dollar Amount ($61,000.00) x [1 – ELP Discount (6.00%)] = $57,340.00.

| Example Price Calculation for Total Base Item Evaluation Price (Truck Body Lot VI) | | |
|---|---|---|
| **Evaluation Quantity** | Evaluation Quantity based on historic sales and anticipated future needs; this is NOT a committed purchase | 14 |
| **Evaluation Dollar Amount** | Evaluation Dollar Amount for one ELP unit, based on historic sales and anticipated future needs; this is NOT a committed purchase | $61,000.00 |
| **ELP Discount** | Percent (%) discount from MSRP. ***Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number; The AOAC Discount for Lot VI is equal to the ELP Discount*** | **6.00** |
| **ELP Evaluation Price** | Automatically calculated: Evaluation Dollar Amount minus ELP Discount | $57,340.00 |
| **Thruway Package Evaluation Price** | Automatically calculated: Equal to the amount calculated in Cell C81 | $25,480.00 |
| **Plow Package Evaluation Price** | Automatically calculated: Equal to the amount calculated in Cell C118 | $568,400.00 |
| **Total Base Item Evaluation Price** | Automatically calculated: Evaluation Quantity multiplied by ELP Interchangeable Body System Unit Price | $1,396,640.00 |

### IV.2.3 TOTAL BASE ITEM EVALUATION PRICE CALCULATION: UPFITTED TRUCK LOTS

The Total Base Item Evaluation Price for each Base Item in each Upfitted Truck Lot is a combination of the ~~Total~~ Base Item MSRPs (~~i.e., the sum of the~~ Chassis Cab, Dump Body and Plow, as applicable ~~MSRPs~~) and Base Item Discounts (Chassis Cab, Dump Body and Plow, as applicable), weighted by the Evaluation Quantity. Set forth below is an example of how the Total Base Item Evaluation Price is calculated for each Upfitted Truck Base Item in Attachment 1: *Specifications and Price Pages*. A Bidder enters the amounts highlighted in grey below (Note: these cells are highlighted in yellow in Attachment 1: *Specifications and Price Pages*).

The mathematical calculation illustrated in the table below is as follows: Evaluation Quantity (24) x Base Item Unit Price [Chassis Cab Price ($112,000.00) plus Dump Body Price ($54,520.00) plus Plow Price ($33,250.00) = $199,770.00]. The Chassis Cab Price is calculated as follows: Chassis Cab MSRP ($140,000.00) x (1-[Chassis Cab Discount (20.00)] divided by 100) = $112,000.00]. The Dump Body Price is calculated as follows: Dump Body MSRP ($58,000.00) x (1-[Dump Body Discount (6.00)] divided by 100) = $54,520.00]. The Plow Price is calculated as follows: Plow MSRP ($35,000.00) x (1-[Plow Discount (5.00)] divided by 100) = $33,250.00].~~[Total Base Item MSRP ($233,000.00) x (1-[Base Item Discount (4.00)] divided by 100) = $223,680.00] = $5,368,320.00. The Total Base Item MSRP is the sum of the Chassis Cab MSRP ($140,000.00), Dump Body MSRP ($58,000.00) and Plow MSRP ($35,000.00).~~

| **Example Price Calculation for Total Base Item Evaluation Price (all Upfitted Truck Lot)** | | |
|---|---|---|
| **Evaluation Quantity** | Evaluation Quantity based on historic sales and anticipated future needs; this is NOT a committed purchase | 24 |
| **Chassis Cab MSRP** | Per unit dollar amount of the Chassis Cab bid; must include all equipment listed in the Base Item specifications for this Item | **140,000.00** |
| **Chassis Cab Discount** | Percent (%) discount from MSRP. **Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number.** | 20.00 |
| **Chassis Cab Price** | Automatically calculated: Chassis Cab MSRP minus Chassis Cab Discount | $112,000.00 |
| **Dump Body MSRP** | Per unit dollar amount of the Dump Body; must include all equipment listed in the Base Item specifications for this Item | **58,000.00** |
| **Dump Body Discount** | Percent (%) discount from MSRP. **Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number.** | 6.00 |
| **Dump Body Price** | Automatically calculated: Dump Body MSRP minus Dump Body Discount | $54,520.00 |
| **Plow MSRP** | Per unit dollar amount of the Plow bid; must include all equipment listed in the Base Item specifications for this Item | **35,000.00** |
| **Plow Discount** | Percent (%) discount from MSRP. **Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number.** | 5.00 |
| **Plow Price** | Automatically calculated: Plow MSRP minus Plow Discount | $33,250.00 |
| ~~**Total Base Item MSRP**~~ | ~~Automatically calculated: Chassis Cab MSRP plus Dump Body MSRP plus Plow MSRP~~ | ~~**233,000.00**~~ |
| ~~**Base Item Discount**~~ | ~~Percent (%) discount from MSRP. ***Note: Type a number only ((e.g., 5.5); For 5.5% type 5.5, not 0.055); Do not type a percentage sign (%) after the number***~~ | ~~**4.00**~~ |
| **Base Item Unit Price** | Automatically calculated: ~~MSRP minus Base Item Discount~~Chassis Cab Price plus Dump Body Price, plus Plow Price | ~~$223,680.00~~ $199,770.00 |
| **Total Base Item Evaluation Price** | Automatically calculated: Evaluation Quantity multiplied by the Base Item Unit Price | $5,368,320.00 $4,794,480.00 |

## IV.3 EVALUATION TOTAL FOR ITEM CALCULATION

The Evaluation Total For Item for each Lot is a combination of the following calculations: Total Base Item Evaluation Price, Total Chassis Cab AOAC Evaluation Price, Total Dump Body AOAC Evaluation Price, Total Plow AOAC Evaluation Price, and Total Delivery Evaluation Price. Not all calculations apply to each Lot. See Section I.9 *Definitions*, and IV.2 *Total Base Item Evaluation Price Calculation*, for further information on how these amounts are calculated.

Set forth below is an example of how the Evaluation Total For Item is calculated for each Lot type (i.e., Chassis Cab Lots, Truck Body Lots, and Upfitted Truck Lots) on the "Bid Summary" worksheet in Attachment 1: *Specifications and Price Pages.* A Bidder enters the amounts highlighted in grey in the table below (Note: these cells are highlighted in yellow in Attachment 1: *Specifications and Price Pages*).

The mathematical calculations illustrated in the table below are as follows:

A. Chassis Cab Lots (Lots I, II and III): Total Base Item Evaluation Price ($152,520.00) + Total Chassis Cab AOAC Evaluation Price ($56,737.44) + Total Delivery Evaluation Price ($462.00) = $209,719.44.

B. Truck Body Lots (Lots IV and V): Total Base Item Evaluation Price ($2,260,830.00) + Total Dump Body AOAC Evaluation Price ($534,121.09) + Total Plow AOAC Evaluation Price ($305,212.05) + Total Delivery Evaluation Price ($2,602.60) = $3,102,765.74.

   Note: Lot VI: Truck Bodies *(ELP Interchangeable Body Systems),* which is not illustrated below, does not include the Total Chassis Cab AOAC Evaluation Price or Total Dump Body AOAC Evaluation Price in the Total Base Item Evaluation Price calculation.

C. Upfitted Truck Lots: Total Base Item Evaluation Price ($5,368,320.00) + Total Chassis Cab AOAC Evaluation Price ($1,288,396.80) + Total Dump Body AOAC Evaluation Price ($1,288,396.80) + Total Plow AOAC Evaluation Price ($748,880.64) + Total Delivery Evaluation Price ($1,848.00) = $8,695,842.24.

| **Example Price Calculation for Evaluation Total For Item** | | | | |
|---|---|---|---|---|
| | **Lot Type:** | **Chassis Cab Lots** | **Truck Body Lots** | **Upfitted Truck Lots** |
| | **Tab name of price sheet(s) applicable to the Lot:** | **Lot I 37k Chassis Cab** | **Lot IV Single Axle Dump** | **Lot VII DOT 47k Upfitted** |
| | **Select "YES" from the drop-down menu to bid on a Lot:** | **YES** | **YES** | **YES** |
| **Base Item** | **Total Base Item Evaluation Price:** | $152,520.00 | $2,260,830.00 | $5,368,320.00 |
| **Chassis Cab Additional Options and Aftermarket Components (Chassis Cab AOAC)** | **Chassis Cab AOAC Evaluation Dollar Amount:** | $61,008.00 | N/A | $1,342,080.00 |
| | **Enter Chassis Cab AOAC Discount:** | **7.00** | N/A (Lot IV does not include a Chassis Cab) | **4.00** |
| | **Total Chassis Cab AOAC Evaluation Price:** | $56,737.44 | N/A | $1,288,396.80 |
| **Dump Body Additional Options and Aftermarket Components (Dump Body AOAC)** | **Dump Body AOAC Evaluation Dollar Amount:** | N/A | $565,207.50 | $1,342,080.00 |
| | **Enter Dump Body AOAC Discount:** | N/A (Lot I does not include a Dump Body) | **5.50** | **4.00** |
| | **Total Dump Body AOAC Evaluation Price:** | N/A | $339,124.50 | $1,288,396.80 |
| **Plow Additional Options and Aftermarket** | **Plow AOAC Evaluation Dollar Amount:** | N/A | $339,124.50 | $805,248.00 |

| | | | | |
|---|---|---|---|---|
| **Components (Plow AOAC)** | **Enter Plow AOAC Discount:** | N/A (Lot I does not include a Plow Option) | **10.00** | **7.00** |
| | **Total Plow AOAC Evaluation Price:** | N/A | $305,212.05 | $748,880.64 |
| **Delivery Cost** | **Evaluation Mileage:** | 308 | 4,004 | 3,696 |
| | **Enter Delivery Cost per Mile:** | $1.50 | $.65 | $.50 |
| | **Total Delivery Evaluation Price:** | $462.00 | $2,602.60 | $1,848.00 |
| **Evaluation Total For Item** | | **$209,719.44** | **$3,102,765.74** | **$8,695,842.24** |

## IV.4 GRAND TOTAL FOR LOT CALCULATION

The Grand Total For Lot for each Lot is the sum of the Evaluation Total For Item for all Base Items in a Lot. For a Lot that includes only one (1) Base Item (i.e., Lots I, II, III, IV, V, VI, VIII, and IX), the Grand Total For Lot is equal to the Evaluation Total For Item. Evaluation Total for Item is calculated in accordance with Section IV.3 *Evaluation Total for Item Calculation.* Set forth below is an example of how the Grand Total For Lot is calculated for Upfitted Truck Lot VII in Attachment 1: *Specifications and Price Pages.*

The mathematical calculation illustrated in the table below is as follows: Lot VII DOT 47k Upfitted Base Item Evaluation Total For Item ($8,695,842.24) + Lot VII DOT 66k Upfitted Base Item Evaluation Total For Item ($28,362,648.00) = $37,058,490.24.

| **Example Price Calculation for Grand Total For Lot** | | |
|---|---|---|
| **Lot Type:** | **Upfitted Truck Lots** | |
| **Tab name of price sheet(s) applicable to the Lot:** | **Lot VII DOT 47k Upfitted** | **Lot VII DOT 66k Upfitted** |
| **Evaluation Total For Item** | **$8,695,842.24** | **$28,362,648.00** |
| **Grand Total For Lot** | **$37,058,490.24** | |

## IV.5 COST PROPOSAL REVISION

Prior to award, the State reserves the right to request a cost proposal revision, in accordance with State Finance Law §163.9(c), from any Bidder determined by the State to be susceptible of being selected for contract award. For purposes of this IFB, "susceptible of being selected for contract award" shall mean the responsive Bidders that have the lowest three (3) Grand Total For Lot for a Lot. Any Bidder that is determined by the State to be insusceptible of being selected for contract award will receive no further consideration for award for a Lot, and will not be asked to participate in the cost proposal revision process.

All Bidders are encouraged to propose the best possible offers at the onset of the initial bid as there is no guarantee that any proposal will be allowed an opportunity to submit a revised cost proposal. Bidders are also advised that partially participating in the cost proposal revision process, or not participating at all, may result in a change in the Bidder's rank if other Bidders choose to reduce pricing in the cost proposal revision process.

A Bidder who is selected to participate in a cost proposal revision process must submit the Attachment 1: *Specifications and Price Pages* provided by Procurement Services, revised with the Bidder's cost proposal revision, in accordance with the format described in Section V.2 *Bid Format and Content,* by the date required by Procurement Services in the cost proposal revision notice sent to the Bidder. The susceptible Bidder must also submit a notarized form provided by Procurement Services, by the date required, that certifies that the cost proposal revision has been submitted by an individual with the express authority to sign on behalf of the Bidder.

The cost proposal revision process, including information sent to the Bidder and the Bidder's submission of the revised Attachment 1: *Specifications and Price Pages,* will be conducted via email to a susceptible Bidder's designated point of contact, identified on Attachment 2: *Bid Documents (Electronic),* Section B: *General Questions*, Question 8, unless otherwise instructed by Procurement Services. Information about the cost proposal revision process will be sent via email to susceptible Bidders prior to release of the cost proposal revision process, and susceptible Bidders will be given the opportunity to submit questions at that time. Answers to questions will be provided to all susceptible Bidders. There will be no additional pre-bid conference for the cost proposal revision process.

A cost proposal revision must be a lower price than the initial bid. Bidders participating in the cost proposal revision process cannot add Base Items that were not in the initial bid, or remove Base Items that were in the initial bid. Procurement Services shall not consider a cost proposal revision for the following: (1) Base Items not identified in the notice sent to the Bidder as being included in the cost proposal revision process; (2) where the cost proposal revision is higher than the initial bid; or (3) for a Base Item that was not included in the initial bid. Pursuant to Appendix B §25, *Timeframe for Offers*, a bid for a Base Item shall not be withdrawn during the cost proposal revision process.

The lowest bid received for Grand Total For Lot for Lots included in the cost proposal revision process will be shared with participants in the cost proposal revision process. The company name of the Bidder with the lowest bid will not be shared with participants in the cost proposal revision process.

Bids from susceptible Bidders participating in a cost proposal revision process will be reevaluated based on the results of the cost proposal revision process. If a susceptible Bidder participating in a cost proposal revision process does not respond to a cost proposal revision request for Item(s) it will be presumed that the susceptible Bidder elected not to participate in the cost proposal revision for the Item(s), and the susceptible Bidder will only be evaluated based on the pricing submitted in their initial bid for the Item(s), or a prior revised Attachment 1: *Specifications and Price Pages*, if there had been a previous cost proposal revision request in which the susceptible Bidder participated. Any susceptible Bidder who submits a revised Attachment 1: *Specifications and Price Pages* after the date required by Procurement Services in the cost proposal revision process notice sent to the susceptible Bidder, will only be evaluated based on the pricing submitted in their initial bid, as applicable.

OGS reserves the right to conduct multiple rounds of the cost proposal revision process, if doing so is determined to be in the best interest of the State.

# SECTION V: BID SUBMITTAL

This section sets forth bid submittal information and instructions for this solicitation.

## V.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 Procurement Services 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. This IFB contains a total of nine (9) Lots, which are specified in Table 1 below in Section 1.2 *Scope*, and described in further detail in Attachment 1: *Specifications and Price Pages.* A Bidder is <u>not</u> required to bid on every Lot; A Bidder may bid on as few or as many Lots as desired. A Bidder that submits a bid for any Lot(s) is required to bid on all Items within the applicable Lot(s) bid;

C. To be considered responsive, a Bidder must submit a bid that satisfies and addresses all requirements stated in this solicitation. **EXCEPT AS OTHERWISE PROVIDED IN THIS SOLICITATION, A BID THAT**

**FAILS TO CONFORM TO THE REQUIREMENTS OF THE SOLICITATION MAY BE CONSIDERED NON-RESPONSIVE AND MAY BE REJECTED;**

D. 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;

E. 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;

F. Awards will be made in accordance with Section IV *Method of Award*. Multiple bidders may receive awards. In the event that a Bidder receives multiple awards under this IFB, a single Contract will be executed covering all awards; and

G. 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.

## V.2 BID FORMAT AND CONTENT

A. The complete bid consists of the following documents. Do not submit any documents not set forth below. A potential Contractor must submit all documents in the manner and format set forth below (i.e., **paper** or **electronic (on CD)**).

1. IFB Cover Page. A **paper** version of Page #1 of the IFB (cover page), completed and with original ink signature.

2. IFB Acknowledgement Page. A **paper** version of Page #2 of the IFB (acknowledgement page), completed and with original ink signature, and notarized;

3. Attachment 1: *Specifications and Price Pages*. An **electronic (on CD)** version of Attachment 1: *Specifications and Price Pages,* completed, in Excel format, (version 2003 or newer). *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 Lot or Base Item being bid. Failure to submit this attachment as specified herein may result in rejection of the bid.* ***Note: Failure to submit the final version of this attachment as posted on the OGS website and announced via the NYS Contract Reporter, shall result in the bid being deemed non-responsive and in the rejection of the bid.***

4. Additional Pricing Information. An **electronic (on CD)** version of the following additional pricing information:

   a) Dealer Invoice(s). An **electronic (on CD)** Dealer Invoice for each Base Item bid in a Chassis Cab Lot (Lots I, II, and III) or Upfitted Truck Lot (Lots VII, VIII and IX);

   b) OEM Pricelist(s). An **electronic (on CD)** OEM Pricelist applicable to each Base Item bid in a Chassis Cab Lot (Lots I, II, and III), *Lot VI Truck Bodies (ELP Interchangeable Body Systems),* or Upfitted Truck Lot (Lots VII, VIII and IX); and

   c) Bidder-Published Pricelist(s). An **electronic (on CD)** Bidder-Published Pricelist applicable to each Base Item bid in a Truck Body Lot (Lots IV and V, excluding Lot VI *ELP Interchangeable Body Systems*), or Upfitted Truck Lot (Lots VII, VIII and IX).

5. Attachment 2: *Bid Documents (Electronic).* An **electronic (on CD)** version of Attachment 2: *Bid Documents (Electronic)*, completed. This attachment includes the two (2) 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*

6. Attachment 3: *Bid Documents (Paper).* A **paper** version of each section in Attachment 3: *Bid Documents (Paper)*, completed and with original ink signature, where applicable. This attachment includes the three (3) sections listed below.

   a) Section A: *New York State Required Certifications*, completed and with original ink signature;

   b) Section B: *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;

   c) Section C: *Manufacturer's Certificate*, completed and with original ink signature;

7. Attachment 4: *Insurance Requirements*. A **paper** or **electronic (on CD)** version of proof of compliance with general, automobile liability, workers' compensation and disability insurance requirements, as specified in Attachment 4: *Insurance Requirements*. Please review the documents prior to submittal to ensure that the documents conform to all requirements set forth in Attachment 4, 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 Office of General Services listed as the Certificate Holder.

   b) Additional requirements applicable to general and automobile liability insurance requirements:

      1) A provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to OGS (listed in "Additional Remarks" section of ACORD, or a separate endorsement).

      2) Waiver of Subrogation (blanket policy language or a separate endorsement); and

      3) "The People of the State of New York, its officers, agents, and employees" named as additional insured (a separate endorsement);

   c) Proof of compliance (e.g., NYS form C-105-2 or U-26.3) with NYS Workers Compensation 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;

   d) Proof of compliance (e.g. NYS form DB-120.1) with NYS Disability 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;

8. Standard Vendor Responsibility Questionnaire (SVRQ). A **paper** version print-out of the online certification page (if completed and certified online), OR a **paper** version of the SVRQ, completed and with original ink signature and notarized (see Section II.9 *New York State Vendor Responsibility Questionnaire for Profit Business Entity*. Forms are available on the OSC website here: 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;

9. 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 (see Section II.10 *Tax Law §5-A*). *Note: Form ST-220-TD, completed and with original ink signature, and notarized, must be submitted directly to the NYS Tax Department.* Forms are available on the Tax Department website here: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf and http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf;

10. Form EEO-100. A **paper** version of form EEO-100 (Equal Employment Opportunity Staffing Plan), completed and with original ink signature (See Section II.23 *Contractor Requirements and Procedures*

*for Business Participation Opportunities for New York State Certified 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;

B. ***Bidders are required to submit the documents in subparagraphs 1, 2 and 3 of Paragraph A above, in the manner provided in Paragraphs D and E below (i.e., electronic or hard-copy), by "Submission of bid and bid opening" time and date specified in Section I.3 Key Events/Dates. Failure to do so result in the bid being deemed non-responsive and in the rejection of the bid.***

C. Bidders are requested to submit the documents in paragraphs 4 through 9 of Paragraph A above, by the time and date specified in Section I.3 *Key Events/Dates*. If Bidder does not submit any of these documents by "Submission of bid and bid opening" time and date specified in Section I.3 *Key Events/Dates*, Bidder is required to submit such documents within five (5) business days of Procurement Services' written request for such document(s). Failure to submit a document within five (5) business days of Procurement Services' written request for such document(s) may render the bid non-responsive and result in the disqualification of the bid.

D. Each bid shall include separately bound original paper documents, and a CD containing electronic files of the required documents specified above in Paragraph A. In the case of discrepancies between the hard copy and the electronic media submission the electronic media submission shall take precedence over the hard copy submission.

   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 on CD-ROM in Windows Vista format or later versions. Where the term "CD" or "CD-ROM" is used, it shall be understood that any of the following electronic media may be used: CD-ROM, DVD or flash drive. Each CD-ROM must be labeled on the outside with: (1) Full legal business name of Bidder and (2) Solicitation Number 22910. It is the Bidder's responsibility to ensure that the documents submitted on CD are readable; Bidder is advised to verify that all submitted documents can be opened and viewed from the CD. If documents submitted on the CD are not readable, the bid may be deemed non-responsive and disqualified.

E. Documents required at the time of bid opening must be submitted in one (1) sealed package and be received by the time and date specified in Section I.3, *Key Events/Dates*.

F. 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://www.ogs.ny.gov/purchase/biddocument/22910BID.ASP and announced via the NYS Contract Reporter. ***Failure to submit the final version of Attachment 1: Specifications and Price Pages as posted on the OGS website and announced via the NYS Contract Reporter shall result in the bid being deemed non-responsive and in the rejection of the bid.***

## V.3 BID DEVIATIONS

If your bid differs from the specifications explain such deviation(s) or qualification(s); and if necessary, attach a separate sheet. Deviations related to specifications listed in Attachment 1: *Specifications and Price Pages* may be set forth in the "Notes/Comments" columns of that attachment. In accordance with Appendix B §8 *Extraneous Terms,* material deviations may render the bid non-responsive and may result in rejection of the bid.

## V.4 BID DELIVERY

Bidders assume all risks for timely, properly submitted deliveries. Bidders are strongly encouraged to arrange for delivery of bids to OGS prior to the date of the bid opening. LATE BIDS shall be considered in accordance with Appendix B §6 *Late Bids Rejected*. Email bid submissions for items required at the time of bid opening are not acceptable and shall not be considered.

Bid envelopes and packages

An envelope and/or package containing a bid shall be clearly marked "**BID ENCLOSED**" and must state the **Bid Number, Bid Opening Date,** and **Time**. Failure to complete all information on the bid envelope and/or packages may necessitate the premature opening of the bid and may compromise confidentiality. Bids shall be delivered to:

**State of New York Executive Department**
**Office of General Services Procurement Services**
**Corning Tower - 38th Floor Reception Desk**
**Empire State Plaza**
**Albany, NY 12242**

FAX transmittals

Facsimile transmittals are NOT acceptable for this solicitation.

Hand deliveries

Bidders must allow extra time to comply with the building access procedures in effect at the Empire State Plaza when hand delivering bids or using deliveries by independent courier services. Bidders assume all risks for timely, properly submitted deliveries.

## V.5 IMPORTANT BUILDING ACCESS PROCEDURES

To access the Corning Tower, all visitors must check in by presenting photo identification at the Information Desk.

A Bidder who elects to deliver its proposal is encouraged to pre-register for building access by contacting the Procurement Services receptionist at 518-474-6262 at least 24 hours prior to the bid submission date.

Visitors who are registered can check in directly with the Information Desk. Visitors who are not pre-registered will be directed to a designated phone to call the Procurement Services Receptionist. The Receptionist will register the visitor at that time but delays may occur. Bidders who intend to deliver bids or conduct Procurement Services business should allow extra time to comply with these procedures. Building Access procedures may change or be modified at any time. Note: Bids not received within Procurement Services, or the OGS Mailroom, by "Submission of bid and bid opening" time and date specified in Section I.3 *Key Events/Dates*, will be considered late.

## V.6 DISPUTE RESOLUTION POLICY

It is the policy of Procurement Services to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to Procurement Services bid solicitations or contract awards. Procurement Services encourages vendors to seek resolution of disputes through consultation with Procurement Services staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of Procurement Services' Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown on the front of this Invitation for Bids or through the OGS website (http://ogs.ny.gov/BU/PC/BizInfo.asp, (click on Dispute Resolution Procedures).

## V.7 ELECTRONIC BID OPENING RESULTS

Procurement Services posts bid results on the OGS/ Procurement Services web page. The web page makes available bids (i.e.: photocopies of the bid cover page) received by Procurement Services for scheduled bid openings. Previously only available through Freedom of Information, such information is anticipated to be available online within two business days after the bid opening.

The Bid Opening Results Page is available at: http://www.ogs.ny.gov/purchase/bidresults/bidresults.asp

## V.8 NOTIFICATION OF AWARD

The successful Bidder(s) shall be advised by OGS in accordance with Appendix B §26 *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 §32 *Purchase Orders*.

## V.9 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. 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 debriefing should be requested in writing within 30 calendar days of notification of non-award.

## V.10 NEW YORK STATE PROCUREMENT RIGHTS

New York State reserves the right to:

A. Reject any or all bids received in response to the IFB;

B. Withdraw the IFB at any time, at the sole discretion of the OGS.

C. Make an award under the IFB in whole or in part;

D. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;

E. Seek clarifications and revisions of bids;

F. Prior to the bid opening, amend the IFB 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 proposal modifications addressing subsequent IFB 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. Adopt all or any part of a Bidder's proposal in selecting the optimum configuration;

M. Negotiate with the Bidder responding to this IFB within the IFB requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bidders' proposals;

N. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors, (e.g., incorrect equipment specified by the Bidder for a required feature in the Base Item specifications, or incorrect MSRP specified by the Bidder in Attachment 1: *Specifications and Price Pages*), for the purpose of assuring a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the solicitation;

O. Select and award the Contract to other than the selected Bidder in the event of unsuccessful negotiations or, optionally, in other specified circumstances as detailed in the IFB requirements;

P. If an incorrect reference/parameter/component/product/etc. is stated by the State or by the Bidder, the evident parameter/component/product shall prevail; the proper alternative or corrected parameter/model/code number(s) shall be considered;

Q. To have the flexibility to consider bids with minor deviations or technicalities and to waive minor deviations or technicalities that may be consistent with the intent and scope of the solicitation. This flexibility may

permit a reasonable outcome in cases where the results of a fair, competitive process are clear but the award of a contract is threatened due to a minor technicality or a minor deviation, and

R. To reject an obviously unbalanced bid or to make "NO AWARD" on individual listing(s) or sub-item(s) if individual bid prices are deemed to be unbalanced or excessive or if an error in the solicitation becomes evident. In such case, ranking and evaluation of bids may be made on remaining listings or sub-items, and award would be made on the remaining listings or sub-items. The determination of an unbalanced bid shall be at the sole discretion of the State.