

Appendix C

How to Use This Contract

This document provides the Authorized User general instructions on how to use the Project Labor Agreement (PLA Services Contract. These instructions assume the Authorized User has a good knowledge of Mini-bid procurement methodology. An Authorized User must familiarize itself with the OGS Centralized Contract terms and conditions. Additional general procurement information is available on the OGS website.

Section 1. General Information

1.1 OGS CENTRALIZED CONTRACT SCOPE

The PLA Services backdrop contract streamlines the procurement of PLA Services for Authorized Users of NYS OGS Centralized Contracts. To utilize these contracts, an Authorized User must use the Request for Quote (RFQ) process outlined in these instructions and the OGS Centralized Contract.

1.2 REQUIREMENTS

1. A competitive RFQ is required for every transaction under this Centralized Contract.
2. A Mini-bid Project Definition may include multiple locations for the same Authorized User.
3. An Authorized User must prepare a detailed Mini-bid Project Definition.
4. The Authorized User must distribute the Mini-bid to all Contractors.
5. An Authorized User shall conduct its Mini-bid in accordance with the terms and conditions of the Centralized Backdrop Contract and include any additional requirements.
6. Contact information for all Contractors can be found on the OGS website for this Award.

Section 2. Preparing the Mini-bid

2.1 CONTRACT TERMS AND CONDITIONS

An Authorized User must understand the terms and conditions of the OGS Centralized Contract prior to project development.

In accordance with Appendix B, Section 26, *Modification of Contract Terms*, an Authorized User may add additional required terms and conditions to the Mini-bid Project Definition only if such terms and conditions are more favorable to the Authorized User and do not conflict with or supersede the OGS Centralized Contract terms and conditions. Examples of additional terms and conditions include:

1. Additional incentives, such as discount for expedited payment/Procurement Card use; and
2. Any additional requirements imposed by the funding source.

2.2 STATUTORY REQUIREMENTS

An Authorized User of this Contract:

1. Must adhere to the procedures of this Contract.
2. Must adhere to Authorized User's internal policies and procedures.
3. Must adhere to all federal, State and/or local statutes, as applicable.

2.3 DEVELOP A PROCUREMENT PLAN

Based on the individual project, the Authorized User should consider the following factors when developing the Mini-bid Project Definition:

1. Pre-Mini-bid
 - a. Identify the specific PLA services needs for the capital construction and design-build project;
 - b. Identify Pricing format - may be based on Blended Rate or Lump Sum Project Fee (*project hours x Blended Rate cannot exceed the Lump Sum Project Fee*);
 - c. Identify any specific service needs or any other special reporting needs;
 - d. Identify any known deficiencies; and
 - e. Review current list of awarded contractors
2. Total procurement timeframes, including but not limited to:
 - a. Pre-bid conference/mandatory site visit
 - b. Question and answer period
 - c. Mini-Bid Project Definition (RFQ) due date
 - d. Tentative Mini-bid start date

2.4 CONDUCTING THE MINI-BID

Centralized Backdrop Contracts have an established set of standardized terms and conditions, guidelines, processes and templates. When an Authorized User requires PLA Services, the Authorized User will issue the competitive RFQ in accordance with the terms and conditions of the Centralized Backdrop Contract and include any additional requirements. The RFQ will be distributed by the Authorized User to Contractors.

The process for conducting a Mini-bid by a **State agency Authorized User** is as follows:

1. A State agency Authorized User will provide the awarded Contractors (via email) a copy of its Mini-bid Project Definition (RFQ).
2. Contractors choosing to respond to the RFQ shall submit their actual proposed pricing (which shall not exceed their awarded pricing Blended Rate) to the State agency User

A State agency Authorized User will evaluate the proposals and award the Mini-bid Agreement as specified in their Project Definition.

The process for conducting a Mini-bid by **any other Authorized User** is as follows:

1. The Authorized User will provide the awarded Contractors (via email) a copy of its Mini-bid Project Definition (RFQ).
2. Contractors choosing to respond to the RFQ shall submit their actual proposed pricing (which shall not exceed their awarded pricing Blended Rate) to the Authorized User.
3. The Authorized User will evaluate the proposals and award the Mini-bid Agreement as specified in their Project Definition.
4. The Authorized User will issue encumbrance documents or other written orders in accordance with their organization's procurement rules that are effective and binding on the Contractor when placed in the mail addressed to the Contractor.

Section 3. Evaluation and Award of Mini-bids

3.1 EVALUATION OF MINI-BIDS

1. The Mini-Bid must be evaluated in accordance with the terms and conditions of the Centralized Backdrop Contract.
2. The Authorized User shall reject any Mini-bid which includes pricing in excess of the maximum "Blended Rate" established under the OGS Centralized Contract.
3. **Evaluation tools cannot be altered after Bid opening.**
4. All evaluation tool notes and extraneous items must be included in the Authorized User's procurement record.

Selection of the winning Contractor will be based on a best-value determination considering the Authorized Users needs and Contractors lowest price. Best value can be equated to low price by the Authorized User.

3.2 NOTIFICATION OF MINI-BID RESULTS

The Authorized User must notify the tentative awardee and non-awardees of tentative Mini-bid results in writing (email is acceptable).

3.3 AWARD OF MINI-BIDS

Contractors choosing to respond to the RFQ shall submit their actual proposed pricing for the project to the Authorized User, which shall not exceed the awarded Blended Rate. The Authorized User will then select a Contractor based on the RFQ responses received in accordance with the terms and conditions as specified in the Authorized user's Mini-bid Project Definition (RFQ).

Contractor questions, clarifications, and/or disputes arising from an Authorized User's RFQ and/or Contractor selection are to be reviewed and resolved by the Authorized User and the Contractor.

Section 4. Documentation

4.1 PROCUREMENT RECORD

An Authorized User shall maintain a record of the Contractors they solicit for an RFQ. Likewise, an Authorized User must adhere to the procedures of the OGS Centralized Contract, its own internal procurement policies and procedures and all federal, State and/or local statutes, when applicable. It is also recommended the Authorized User save copies of all email correspondence to each of the Contractors for inclusion in their procurement record.

The following are **examples** of documentation that may be included in an Authorized User's Procurement Record. This list is not meant to be all inclusive:

- Copy of the OGS Centralized Contract;
- Mini-bid Project Definition;
- Blank Authorized User Mini-bid Documents
- Bidders List;
- Questions & Answers;
- Evaluation Criteria;
- Evaluation Summary;
- Reasonableness of Price;
- Awarded Proposal;
- Proposals Received;
- Any Bidder Correspondence (e.g., clarifications);
- Rejected Proposals with Justification;
- Tentative Award letter;
- Non-award Letters;
- Protests and Responses;
- Justification for Rejecting Proposals;
- Authorized User (Contract) Agreement;

4.2 OFFICE OF THE STATE COMPTROLLER

For the purchase of services available from this Contract, the Authorized User may award a Mini-bid directly to the Contractor without prior approval by the Office of the State Comptroller (OSC).

The State retains the right to post-audit any procurement, including those executed from this Contract. Authorized Users are reminded to follow all procurement guidelines.

4.3 NEW YORK STATE PROCUREMENT GUIDELINES

Additional information is available in "The New York State Procurement Guidelines", which can be found at: <http://nyspro.ogs.ny.gov/sites/default/files/uploaded/NYS%20Procurement%20Guidelines.pdf>.