

## Appendix E How to Use This Contract

This document provides the Authorized User general instructions on how to use the Elevator, Escalator and Miscellaneous Lift Equipment 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. Please also see the Frequently Asked Questions (FAQ's) for information on required documentation from the contractor, overtime, etc. Additional general procurement information is available on the OGS website.

### Section 1. General Information

#### 1.1 OGS CENTRALIZED CONTRACT SCOPE

The Elevator, Escalator and Miscellaneous Lift Equipment backdrop contracts streamline the procurement of Lift Equipment preventive and corrective maintenance services for Authorized Users of NYS OGS Centralized Contracts. To utilize these contracts, an Authorized User must use the Mini-bid process outlined in these instructions and the OGS Centralized Contract.

#### 1.2 REGIONS AND LOTS

OGS Centralized Contracts have been awarded by Region and Lot, with eleven regions established as shown in the following Table:

| <b>Region</b>                                     | <b>Applicable Counties</b>  |
|---|---|
| Region No. 1 - Long Island Region                 | Nassau and Suffolk  |
| Region No. 2 - New York Region                    | Bronx, Kings, New York, Queens and Richmond   |
| Region No. 3 - Lower Hudson Valley Region         | Orange, Putnam, Rockland and Westchester  |
| Region No. 4 - Hudson Valley Region               | Dutchess, Sullivan and Ulster Counties  |
| Region No. 5 - Capital Region                     | Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady and Schoharie                 |
| Region No. 6 - North Country Region               | Clinton, Essex, Warren and Washington Counties  |
| Region No. 7 - Mohawk Valley/North Country Region | Franklin, Fulton, Hamilton, Herkimer, Lewis, Madison, Montgomery, Oneida and St. Lawrence |
| Region No. 8 - Central New York Region            | Cayuga, Cortland, Jefferson, Onondaga and Oswego  |
| Region No. 9 - Southern Tier Region               | Broome, Chemung, Chenango, Delaware, Otsego, Schuyler, Steuben, Tioga and Tompkins        |
| Region No. 10 - Finger Lakes Region               | Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates           |
| Region No. 11 - Western New York                  | Alleghany, Cattaraugus, Chautauqua, Erie and Niagara                                      |

Within each region, lots were established based on the type of Lift equipment service provided, and consist of the following:

- Lot 1: Traction Elevator Equipment (Geared and Gearless Traction Elevators);
- Lot 2: Hydraulic Elevator Equipment;
- Lot 3: Escalator Equipment; and
- Lot 4: Miscellaneous Lift Equipment (Dumbwaiters, Wheelchair Lifts, Stage Lift Elevators).

#### 1.3 REQUIREMENTS

- A competitive Mini-bid Project Definition is required for every transaction under this Centralized Contract.
- Mini-bid Project Definitions can be distributed to no more than one Region per project.
- A Mini-bid Project Definition may include multiple locations and buildings provided that they are in the same Region.
- A Mini-bid Project Definition may include multiple Lots.

- An Authorized User must prepare a detailed Mini-bid Project Definition using the Mini-bid template, set forth in Appendix D, Mini-bid Template.
- The Authorized User must distribute the Mini-bid to all qualified Contractors in the selected Region and Lot.
- An Authorized User shall conduct its Mini-bid in accordance with the requirements set forth in Appendix E *How to Use this Contract*.
- Contact information for all awarded Contractors in each Lot can be found on the OGS website for this Contract.

## **Section 2. Preparing the Mini-bid**

### **2.1 AUTHORIZED USER COMPLIANCE WITH MWBE PARTICIPATION GOALS AND EQUAL EMPLOYMENT OPPORTUNITIES**

OGS determined that the only participation opportunities for minority- and women-owned business enterprises (“MWBEs”) was for materials and supplies, which are typically purchased in bulk, rather than for particular engagements. Therefore, the participation rate for MWBEs on the Contracts awarded by OGS are being tracked at the Centralized Contract level. State Agency and Authority (as defined in New York State Executive Law §310 and hereinafter referred to as “State Agency”) Authorized Users should not request MWBE Utilization Plans for the Mini-bids.

In addition, OGS will also collect the Equal Employment Opportunity (“EEO”) reports at the centralized level. State Agency Authorized Users should not require staffing plans or EEO Workforce Employment reports from Contractors.

Other Authorized Users may have their own internal policies and procedures regarding MWBE participation goals to which they should adhere.

### **2.2 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 27, 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:

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

### **2.3 STATUTORY REQUIREMENTS**

An Authorized User of this Contract:

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

### **2.4 DEVELOP A PROCUREMENT PLAN**

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

- Pre-Mini-bid
  - Perform a survey of current needs for Lift Equipment preventive and corrective maintenance;
  - Identify any specific service needs such as an on-site mechanic or special reporting needs;
  - Identify all known deficiencies of the Lift Equipment; and

- Review current list of awarded Regions and Lots to verify that the needed services are on contract and identify the qualified contractors.
- Total procurement timeframes, including but not limited to:
  - Pre-bid conference/mandatory site visit
  - Question and answer period
  - Mini-Bid Project Definition due date
  - Tentative Mini-bid start date
- Technical/financial weighting
  - Technical weighting can be no more than 70%, including consideration whether to use the quantitative factors set forth in State Finance Law section 163(1)(j), if applicable
  - Financial weighting can be no less than 30%
  - Authorized Users are encouraged to develop a weighting ratio within these parameters that will provide Best Value – for example 60% Technical / 40% Financial
  - Best Value may also be based on Contractor meeting the mandatory requirements (pass/fail) and lowest cost (100% financial weighting)
  - If the Authorized User specifies minimum requirements for the Maintenance Control Plan, then these shall be evaluated on a pass/fail basis.
  - If the Authorized User requires the Contractor to submit proposed staffing information (names of elevator mechanics, years of experience, etc) with their response, the Authorized User must set forth in the Mini-bid Project Definition the relative weight and scoring methodology for evaluating the staffing information.
  - Evaluation methods

Once the procurement plan is complete, Appendix D, Attachment 1 - Mini-Bid Template is used to create the final Mini-bid.

## 2.6 CONDUCTING THE MINI-BID

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

- A State Agency Authorized User will review the location of their facility(s) to determine what region they are located in. Please note that if a State Agency Authorized User is seeking services at multiple sites located in several regions, then separate Mini-bid Project Definitions must be done for each region.
- A State Agency Authorized User will review the list of lots available in the applicable region.
- A State Agency Authorized User will provide the eligible Contractors in the region and lot a copy of the Project Definition.
- Contractors shall develop a bid and submit it to the State Agency Authorized User by the appropriate date.
- A State Agency Authorized User will evaluate the bids and award the Mini-bid Agreement using Best Value as specified in the Project Definition. Please note that the fees and markup rates for the Mini-bid shall be less than or equal to the corresponding fees and markup rates awarded for the Contractor's Centralized Contract.
- The State Agency Authorized User will submit a copy of the 'Mini-bid Project Definition' and awarded bid to the OGS Procurement Services Contract Manager listed on the Contract Award Notification document or contract landing page.
- The Procurement Services Contract Manager will provide the State Agency Authorized User with a Contract Number for the awarded Contractor upon receipt of the 'Mini-bid Project Definition' and awarded bid.  
NOTE: The OGS Contract Manager is NOT reviewing or approving the 'Mini-bid Project Definition' or awarded bid, but is only issuing a unique contract number for accurate record keeping purposes.
- A State Agency Authorized User will issue encumbrance documents or other written orders that are effective and binding on the Contractor when placed in the mail addressed to the Contractor at the address shown on the signature page. In order to encumber funds, the Agency's Finance Officer must complete an AC340 for the Contractor selected as a result of an award made or scope change issued under the Centralized Contract. Both the processed AC340 and BCL report must be included in the Procurement Record.

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

- The Authorized User will review the location of their facility(s) to determine what region they are located in. Please note that if the Authorized User is seeking services at multiple sites located in several regions, then separate Mini-bid Project Definitions must be done for each region.
- The Authorized User will review the list of lots available in the applicable region.
- The Authorized User will provide the eligible Contractors in the region a copy of the Project Definition.
- Contractors shall develop a bid and submit it to the Authorized User by the appropriate date.
- The Authorized User will evaluate the bids and award the Mini-bid Agreement using Best Value as specified in the Project Definition. Please note that the fees and markup rates for the Mini-bid shall be less than or equal to the corresponding fees and markup rates awarded for the Contractor's Centralized Contract.
- The Authorized User will submit a copy of the 'Mini-bid Project Definition' and awarded bid to the OGS Procurement Services Contract Manager listed on the Contract Award Notification document or contract landing page.
- The Procurement Services Contract Manager will provide the Authorized User with a Contract Number for the awarded Contractor upon receipt of the 'Mini-bid Project Definition' and awarded bid. NOTE: The OGS Contract Manager is NOT reviewing or approving the 'Mini-bid Project Definition' or awarded bid, but is only issuing a unique contract number for accurate record keeping purposes.
- 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 at the address shown on the signature page.

## 2.5 ADDITIONAL CONSIDERATIONS FOR THE AUTHORIZED USER

- The evaluation tools, criteria and weighting must be finalized prior to the Mini-bid opening date. Best practice is that evaluation tools, criteria and scoring factors are finalized prior to Mini-bid release.
- If the scope of the Mini-bid Project Definition involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any pollutants, which includes but are not limited to, petroleum, petroleum product, hazardous material or substance including asbestos, lead, fungus and those as defined by applicable state and federal laws and regulations, then the Contractor is required to obtain Pollution Legal Liability Insurance that meets the requirements of section 2.8 of the Mini-bid Project Definition Template. **It is the responsibility of the Authorized User to require this insurance in the Mini-bid Project Definition, review the Contractor's insurance and verify that the Pollution Legal Liability Insurance requirements have been met.** If the scope does not include this type of work, but during the term of the Mini-bid Agreement work involving abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any pollutants, which includes but are not limited to, petroleum, petroleum product, hazardous material or substance including asbestos, lead, fungus and those as defined by applicable state and federal laws and regulations becomes necessary or is added to the scope of the Mini-bid Project Definition, then the Contractor is required to supply Pollution Legal Liability Insurance that meets the requirements of this section to the Authorized User within ten (10) business days of request. In addition, the Authorized User has the right to suspend work in accordance with Appendix B, Section 45 until the required insurance is provided.

## Section 3. EVALUATION AND AWARD OF MINI-BIDS

### 3.1 EVALUATION OF MINI-BIDS

- The Mini-Bid must be evaluated based on the Authorized User's pre-defined methodology as it relates to the services required.
- The Authorized User shall reject any Mini-bid which includes pricing in excess of the "maximum Not-To-Exceed price" established under the OGS Centralized Contract.
- **Evaluation tools cannot be altered after Bid opening.**
- All evaluation tool notes and extraneous items must be included in the Authorized User's procurement record.

### 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.

### 3.3 AWARD OF MINI-BIDS

The OGS Centralized Contract requires that a Mini-bid be completed and an award made on the basis of “best value”. Thus, a Mini-bid award must be made to the Contractor who offers the best value solution. State Finance Law § 163(4)(d) mandates that a contract for services be awarded on the basis of best value which takes into consideration cost as well as technical or non-cost factors. For certain service and technology procurements, best value can be equated to lowest price, where all requirements have been met by the Contractor. The evaluation weight assigned to the Technical evaluation shall not exceed 70% of the total score, and Cost evaluation shall be no less than 30% of the total score.

If the Authorized User is subject to the requirements of the State Finance Law, State Finance Law Section 163(1),(j) allows the inclusion of a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises (MWBES) as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the Executive Law. It is recommended that up to 5% of the total technical evaluation scale be awarded to a Proposer who meets one of these criteria. In addition, if the Authorized User includes a quantitative factor in its evaluation, as part of the Mini-bid process it must obtain a certification from each Contractor indicating whether such Contractor is a small business pursuant to Executive Law Section 310(20). The Authorized User must use the directory of New York State Certified MWBEs to verify a Contractor’s status as a MWBE.

Authorized User may choose to provide additional Technical evaluation point components for the Contractor to provide more focused proposals (e.g. 5% Key personnel interviews).

## Section 4. DOCUMENTATION

### 4.1 PROCUREMENT RECORD

An Authorized User must adhere to the procedures of this OGS Centralized Contract, its own internal procurement policies and procedures and all federal, State and/or local statutes, when applicable.

The following are examples of documentation that should be created and maintained by the Authorized User as part of a Procurement Record. This list is not meant to be all inclusive

- Approved Requisition or Purchase Order;\*
- DOB 1184 Attachment A or B ([http://www.budget.ny.gov/guide/bprm/bulletins/b-1184\\_revised.html](http://www.budget.ny.gov/guide/bprm/bulletins/b-1184_revised.html));\*
- Bid distribution and announcements;
- Pre-bid Conference Sign-In Sheet and Transcript;
- Bid Protests and Responses;
- Justification for Rejecting Bids or Proposals;
- Blank Solicitation Document (including appendices);
- Questions & Answers;
- Evaluation Instruments;
- Completed Evaluation Score Sheets & Evaluation Summary;
- Bid Tabulation;
- Bidders List;
- Reasonableness of Price;
- Price Lists, if applicable;
- Awarded Bid;
- Proposals Received;
- If less than 3 Bids received, No-Bid/No-Reply Survey;
- Any Contractor Correspondence (e.g. clarifications);
- Rejected Bids with Justification;
- Tentative Award letter;
- Non-award Letters;
- Authorized User (Contract) Agreement; and

\*Requirement for State Agency

#### 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 relating to a Best Value procurement 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>.