

Group 40440– Award 23166 Vehicles, Class 1-8

HOW TO USE THE CONTRACTS

This document provides information for Authorized Users on how to use the Contracts under Award 23166 Vehicles, Class 1-8 (NYS Vehicle Marketplace). The purpose of Award 23166 is to provide Authorized Users with a means of acquiring (purchasing or leasing) new Vehicles through a competitive Mini-Bid conducted via the NYS Vehicle Marketplace eProcurement platform. Please visit the Vehicle Buyer Information page at the link below for additional information on how to register with the eProcurement platform and submit a Vehicle Request Form for a Mini-Bid.

NYS Vehicle Marketplace Website: <https://vehicles.nyspro.ogs.ny.gov>

1. PROCUREMENT METHOD

The following procurement instructions Shall apply to the Contracts under Award 23166.

- A. When utilizing the Contract, 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, if any; and
 - The reason(s) supporting the resulting purchase.
- B. An Authorized User Shall review the Contracts and associated NYS Minimum Discounts and available Dealers and OEM Product Lines on the OGS website under Award 23166.
- C. NYS Vehicle Marketplace.

Authorized User purchases under this Contract Shall be made through a competitive Mini-Bid conducted via the NYS Vehicle Marketplace eProcurement Platform, as described below. OGS reserves the right to not use an eProcurement Platform, or change the eProcurement Platform's host and/or functionality, throughout the term of the Contract at its discretion, without requiring an amendment of the Contract. The Contractor Shall only provide a Vehicle under this Contract when it has been awarded under the Mini-Bid process. A Mini-Bid awarded by an Authorized User to a Contractor May not be utilized by another Authorized User for procurement of a Vehicle.

 1. When a need is identified, an Authorized User is required to obtain all internal/control agency approvals necessary prior to initiating a Mini-Bid through the NYS Vehicle Marketplace. Upon internal/control agency approvals, the Authorized User Shall complete the on-line Vehicle request form at the eProcurement Platform. Information to be entered will include the number of Vehicles needed, a description of the Vehicles, Authorized User Specifications, (e.g., required features, deletion of any standard equipment, and addition of Options or Aftermarket components), delivery requirements and locations, and any additional required terms for the Mini-Bid. Authorized User acknowledges that any Vehicle specification information made available through the eProcurement Platform is for the Authorized User's convenience, and that although such information is believed to be accurate, accuracy is not guaranteed.

If the Authorized User is requesting a Chassis or Body for the Contractor to combine with a corresponding Chassis or Body that will be supplied by the Authorized User, then the Authorized User Shall be required to provide specifications for that Chassis or Body supplied by the Authorized User.

A Mini-Bid that does not include a Chassis, Body or Single OEM Vehicle (e.g., a request for a stand-alone Option or Aftermarket Component) is out of the scope of this Contract and Shall not be processed by OGS.

2. Each Mini-Bid request Shall be assigned a system-generated Mini-Bid Number. OGS will review the request within three (3) business days and will expedite upon request. The Mini-Bid Shall be publicly posted on the eProcurement Platform, and a system-generated email will be sent to each Contractor. Postings can be viewed by the Contractor on the eProcurement Platform, and May also be publicly viewed via a link on the OGS NYS Vehicle Marketplace website.
3. From the date of OGS posting of a Mini-Bid request, Contractors Shall have five (5) business days to submit a response for a Single OEM Vehicles, and fifteen (15) business days to submit a response for a Complete Vehicle that includes both a Chassis and a Body, via the eProcurement Platform. Procurement Services reserves the right to set Mini-Bid response submittal deadlines that are longer or shorter than the standard five (5) or fifteen (15) business days. The Mini-Bid response submittal deadline for each Mini-Bid Shall be posted on the eProcurement Platform.
4. Each Mini-Bid posting Shall include contact information for the Authorized User requesting the Vehicle(s). Any questions regarding the Authorized User Specifications and other information posted for a Mini-Bid Must be submitted via the question and answer feature on the eProcurement Platform. The Authorized User Shall be responsible for answering Contractor questions via the eProcurement Platform. Each question and answer submitted via the eProcurement Platform will be publicly posted for all Contractors to view.
5. The Contractor Shall be responsible for providing updated email address(es) during the Contract term to the OGS Contract Administrator identified on the Contact Award Notification page posted at the OGS website. The Contractor Must also update its eProcurement Platform profile with updated email addresses(es) during the Contract term.
6. A Contractor that offers a Vehicle in response to a posted Mini-Bid Must provide the Mini-Bid response via the eProcurement Platform. The Contractor is responsible to ensure its response is accurate and complete. Contractor Must enter any bid deviations or other additional information applicable to the Mini-Bid in the designated field on the eProcurement Platform. A Mini-Bid response submitted in a format other than the eProcurement Platform Shall be considered non-responsive and the Mini-Bid response Shall be disqualified.
7. Timeframe for offers in Mini-Bids. The Vehicle and pricing offered in a Mini-Bid is firm for the timeframes listed below. Once the Contractor has accepted a Purchase Order (see Contract Section 2.12 *Ordering*), the Contractor May not withdraw their offer.
 - a. If providing Vehicle(s) Built to Specifications, the timeframe for offers Shall be as specified in the Contract, Appendix B, Section 19 *Timeframe for Offers*.
 - b. If providing Pre-Existing Inventory Vehicle(s), the timeframe during which offers Shall remain firm and cannot be withdrawn Shall be ten (10) calendar days from the first Business Day immediately following the Mini-Bid response submittal deadline, or such other period of time as specified in the Mini-Bid. In order for a Mini-Bid response to be responsive to a Mini-Bid involving Pre-Existing Inventory Vehicle(s), the Contractor is required to retain the Pre-Existing Inventory Vehicle(s) for the ten (10) calendar day period, or such other period of time as set forth in the Mini-Bid. Contractor's failure to retain the Pre-Existing Inventory Vehicle(s) for such period of time Shall render Contractor's Mini-Bid response non-responsive and the Mini-Bid response Shall be disqualified.
8. The Authorized User Shall be notified via email from the eProcurement Platform when Mini-Bid results are available. The Authorized User Shall be responsible for evaluation and award of the Mini-Bid. Authorized Users are instructed to notify the Contractors by entering each Contractor's award or non-award status via the eProcurement Platform within ten (10) Business Days of receipt of Mini-Bid responses.
9. The Authorized User Shall evaluate all Mini-Bid responses received in response to the Mini-Bid, and is responsible for verifying that the Vehicle(s) offered meet the Authorized User Specifications. The Contractor Shall, upon request of the Authorized User, submit a Build Sheet, OEM Pricelist and Contractor-Published Pricelist, as applicable, to the Authorized User prior to award of the Mini-Bid. Award Shall be made by the Authorized User to a responsive Contractor based on the requirements specified by the Authorized User in their Mini-Bid.

10. Upon determination of either award or that an award Shall not be made, the Authorized User Shall issue notification of tentative award, non-award, or that an award Shall not be made, via the eProcurement Platform, to all Contractors that submitted a Mini-Bid response. Notification of tentative award Shall include the final number of Vehicles that the Authorized User intends to issue a Purchase Order for.
11. A Contractor May submit a Mini-Bid response for a Vehicle OEM that is not set forth in the Contract, Attachment 1 – *Contractor Information*, provided that the Contractor submits a request to add the OEM to the Contract, in the form and format contained in in the Contract, Appendix C – *Contract Modification Procedure* prior to, or upon, tentative award of the Mini-Bid.

Failure to either submit a request to add the OEM to the Contract, or to provide proof of Dealer status if requested by OGS or the Authorized User, Shall result in the Mini-Bid response being deemed non-responsive and in the rejection of the Mini-Bid response.

12. After notice of tentative award of the Mini-Bid, the Authorized User Shall issue a Purchase Order to the Contractor following the Authorized User's standard procedures (see Contract Section 2.12 *Ordering*). The Authorized User, at its discretion, May request lower pricing for a Vehicle from the Contractor that is the tentative awardee prior to issuance of a Purchase Order. The contractor May offer lower pricing, but is not obligated to do so (see Contract, Appendix B, Section 13 *Pricing*). The Authorized User May request that Additional Options and Aftermarket Components (AOAC) be added or deleted from the awarded Vehicle specifications in accordance with Contract Section 3.9 *Additional Options and Aftermarket Components (AOAC)*. Upon receipt of the Purchase Order for a Vehicle that includes both a Chassis and a Body, at the Authorized User's discretion, the Contractor and Authorized User Shall conduct a pre-production meeting in order to ensure complete and accurate understanding of the Authorized User Specifications and delivery requirements. See Contract Section 3.13 *Pre-Production Meeting*.
13. Upon completion of this Mini-Bid process, the Authorized User Must document the outcome of the Mini-Bid on the eProcurement Platform. This Shall include justification of method of award. If at least three (3) Mini-Bid responses are not submitted, the Authorized User Must justify the reasonableness of award. The Authorized User Must also ensure that copies of the documents are maintained for audit purposes following the Authorized User's standard procedures.

D. Authorized User Procurement Rights.

Authorized Users hereby reserves the right in a Mini-Bid to:

1. Reject any or all responses received in response to the Mini-Bid;
2. Withdraw the Mini-Bid at any time, at the Authorized User's sole discretion;
3. Make an award under the Mini-Bid in whole or in part;
4. Disqualify any Contractor submitting a response whose conduct and/or proposal fails to conform to the requirements of the Mini-Bid;
5. Seek clarifications and revisions of Mini-Bid responses;
6. Prior to the Mini-Bid response submittal deadline, amend the Solicitation specifications to correct errors or oversights, or to supply additional information, as it becomes available;
7. Prior to the Mini-Bid response submittal deadline, direct Contractors to submit modifications addressing subsequent Mini-Bid amendments;
8. Change any of the schedule dates with notification through the eProcurement Platform to all Contractors;
9. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Contractors;
10. Waive any requirements that are not material;
11. Utilize any and all ideas submitted in the Mini-Bid responses received;
12. Adopt all or any part of a Contractor's Mini-Bid response in selecting the optimum configuration.
13. Negotiate with the Contractor responding to the Mini-Bid within the Mini-Bid requirements to serve the best interests of the State. This includes requesting clarifications of any or all Contractor's Mini-Bid responses;

14. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Contractor's Mini-Bid response and/or to determine a Contractor's compliance with the requirements of the Mini-Bid;
15. Select and award the Mini-Bid to other than the selected Contractor in the event of unsuccessful negotiations; and
16. Use information obtained through site visits, management interviews, and the state's investigation of a Contractor's qualifications, experience, ability or financial standing, and any material or information submitted by the Contractor in response to the agency's request for clarifying information in the course of evaluation and/or selection under the Mini-Bid.

2. ORDERING

Purchase Orders Shall be made in accordance with the terms set forth in the Contract, Appendix B, Section 30 *Purchase Orders*. Authorized Users May submit orders by hard copy, and, if available, May submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted Shall be deemed received by Contractor on the date submitted.

A. All Purchase Orders are to include the following information;

1. Purchase Order Number
2. Contract number;
3. Contractor business name;
4. Contractor NYS Vendor ID Number;
5. NYS Vehicle Marketplace Mini-Bid Number;
6. General description of Vehicle(s);
7. Make, Model and Model Code of the Vehicle(s);
8. Option Code(s) and descriptions, if applicable;
9. Make, Model, part numbers and descriptions, of Aftermarket Components, if applicable;
10. NYS Price For Vehicle(s);
11. Quantity ordered;
12. Total Price For Mini-Bid;
13. Total Aftermarket Component cost, if applicable; and
14. Liquidated damages, if any.

B. All Purchase Orders Shall reference Contract number, requisition, and/or Purchase Order number (if applicable). Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable). Contractor's issuance of an order confirmation Shall be deemed a representation to the Authorized User that the Contractor has received and reviewed the Purchase Order and has entered the order with the OEM and that the manufacturer has accepted the order and assigned an order number and anticipated build and delivery dates. See also Contract Section 2.20 *Delivery Time*.

3. INVOICING AND PAYMENT

Invoicing and payment Shall be made in accordance with the terms set forth in the Contract, Appendix B, Section 45 *Contract Invoicing*.

The Contractor is required to provide the Authorized User with one invoice for each Purchase Order at the time of delivery. The invoice Must include detailed line item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields Must be included on each invoice:

- Contractor Name
- Contractor Billing Address
- Contractor Federal ID Number
- NYS Vendor ID Number

- NYS Vehicle Marketplace Mini-Bid Number
- NYS Contract Number
- Name of Authorized User indicated on the Purchase Order
- NYS Agency Unit ID (if applicable)
- Authorized User's Purchase Order Number
- Order Date
- Invoice Date
- Invoice Number
- Invoice Amount
- Make, Model, and Model Code of the Vehicle(s)
- Make, Model, part numbers and descriptions, of Aftermarket Components, if applicable;
- NYS Price For Vehicle(s)
- Quantity
- Total Price For Mini-Bid

4. "OGS OR LESS" GUIDELINES

Purchases of the Products included in the scope of this Contract are subject to the "OGS or Less" provisions of 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.).

Agencies are reminded that they Must provide the State 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 Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

5. 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, Section 25 *Participation in Centralized Contracts*. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that May have delivery locations adjacent to New York State), the terms of the Price clause Shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies Must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS web site (<https://online.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's eligibility to purchase from New York State Contracts May also be directed to NYS Procurement Services Customer Services at 518-474-6717.

6. POOR PERFORMANCE

Authorized Users should notify NYS Procurement Services Customer Services promptly if the Contractor fails to meet the requirements of this contract. 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
Customer Services Coordination
38th Floor Corning Tower
Empire State Plaza
Albany, NY 12242

Tel: 518-474-6717
E-mail: customer.services@ogs.ny.gov

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