Group 40440– Award 23166
Vehicles, Class 1-8

HOW TO USE
Revised January 02, 2026

This document provides information for Authorized Users ("Buyers") 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 from Contractors ("Vehicle Dealers") through a competitive Mini-Bid process conducted by the Authorized User, as described in further detail below. Please visit the Vehicle Marketplace website at the link below for additional information, and forms that will be used for the Mini-Bid process. Vehicle Dealers who are interested in participating in the NYS Vehicle Marketplace should see the *Dealer Guide* for additional guidance on how to participate.

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1. QUICK LINKS:

1. Contract Information: https://ogs.ny.gov/contract-award-23166
2. Contract: https://online.ogs.ny.gov/purchase/spg/pdfdocs/4044023166TC.pdf
3. NYS Vehicle Marketplace Website: https://ogs.ny.gov/new-york-state-vehicle-marketplace
4. Buyer's Guide: https://ogs.ny.gov/system/files/documents/2023/10/award-23166-buyer-guide.pdf
5. Vehicle Specification Resources and Vehicle Manufacturers: https://ogs.ny.gov/vehicle-specification-resources-and-vehicle-manufacturers
6. Vehicle Request Forms (Form As): https://ogs.ny.gov/vehicle-buyers (scroll down to the Vehicle Request Forms section)
7. Distribution Tool: https://ogs.ny.gov/vehicle-buyers (scroll down to the Mini-Bid Distribution section)
8. Original Contract Solicitation Information: https://ogs.ny.gov/procurement/biddocument/23166CRBID
9. Contract Manager: nysvehiclemarketplace@ogs.ny.gov

2. TIPS, TRICKS, & RECOMMENDATIONS:

1. A How to Use the Vehicle Marketplace flowchart for **Executive Agencies** is available at https://ogs.ny.gov/nysvehiclemarketplace (scroll down to the Flowcharts: How to Use the Vehicle Marketplace section).
2. A How to Use the Vehicle Marketplace flowchart for **Non-Executive Agencies** is available at https://ogs.ny.gov/nysvehiclemarketplace (scroll down to the Flowcharts: How to Use the Vehicle Marketplace section).
3. **Research** the industry to see what vehicles and configurations are available to meet your needs.
    a. This includes but is not limited to visiting the websites or reaching out the Contractors (dealerships) and/or the Original Equipment Manufacturer. Researching will help in areas such as:
        i. Determining if a **Zero Emission Vehicle** (ZEV) can meet your needs
        ii. Understanding what specifications come standard
        iii. Help ensure that bid criteria is reflective of available models
        iv. **Build Out Dates** / Understanding the dates orders need to be placed by in order to secure the product you wish to purchase.
            - **Authorized Users are encouraged to check on the build out dates by contacting dealerships, OEMs, or other potential resources such as:**

- https://www.elementfleet.com/insights-and-resources/resources/start-ups-and-build-outs
- https://www.wheels.com/fleet/orderreference/startupdates_usa.pdf

4. Review the **Buyer's Guide** at https://ogs.ny.gov/system/files/documents/2023/10/award-23166-buyer-guide.pdf as it contains best practices and guidelines for evaluating and awarding a Mini-Bid.
5. When applicable, Authorized Users are recommended consider releasing broader required specifications
    a. This could lead to Mini-Bid responses from more dealers and better pricing
6. We recommend Authorized Users review the examples for each of the 3 From A types
    a. Visit https://ogs.ny.gov/vehicle-buyers, scroll down to the Vehicle Request Forms section, then click on "View Example" which is at the end of the description of each version of the Form A.
7. Authorized Users are reminded to work with Contractors to ensure the vehicle specifications are fully understood
8. We recommend Authorized Users consult with OGS Procurement Services in advance of releasing a large bid.
    a. You can call the Contract Manager by telephone or by emailing nysvehiclemarketplace@ogs.ny.gov.
9. The **Distribution Tool** is located at https://ogs.ny.gov/vehicle-buyers (scroll down to the Mini-Bid Distribution section).
    a. This document contains information such as the **Contractors (dealerships)** who hold a contract for this award and the **Original Equipment Manufacturers** they are authorized to sell products for under this award.
    b. **ALWAYS DOWNLOAD A NEW DISTRIBUTION TOOL EACH TIME A MINI-BID IS RELEASED.**
    c. **INCLUDE ALL CONTRACTORS THAT MIGHT BE ABLE TO PROVIDE THE PRODUCT YOU WOULD LIKE TO PURCHASE.**
        i. Authorized Users are NOT permitted to target Contractors based on their location. Nor can Authorized Users arbitrarily pick and choose which Contractors they wish to send their Mini-Bids to. See the Mini-Bid Distribution Tool's Buyer Instructions worksheet for details.

3. BRIEF SUMMARY OF PROCUREMENT

1. Identify your Need
2. Conduct Research
3. Create Specifications
4. Obtain Approvals and Funding
5. Complete Applicable Form A
6. Use Distribution Tool then Release Mini-Bid/Form A
7. Evaluate the Mini-Bid
8. Issue Award and Non-Award Letters

See Contract, ancillary documents, and view our website for additional details. Authorized Users are reminded to follow your own Procurement Policies, Procedures, and Guidelines as needed.

4. PROCUREMENT METHOD

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

A. **General Information**. 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.

An Authorized User shall review the Contracts, available Vehicle Dealers and OEM Product Lines, and associated NYS Minimum Discounts, on the OGS website under Award 23166. Click on "Contractor Information" on the Award summary page located at https://ogs.ny.gov/award-23166-Contractor-Information, and then "Contractor and Product Information" for the applicable Contractor. A summary is also available on the *Mini-Bid Distribution Tool*, located at the Vehicle Marketplace website at https://ogs.ny.gov/vehicle-buyers.

B. Contract Exclusions. The following Vehicles and Product are excluded from this Contract:

1. Heavy Construction Equipment (i.e., equipment which is intended for heavy work such as earthmoving, construction, lifting containers or materials, drilling holes in earth or rock, concrete or paving application or street sweeping (e.g., aerial lifts, large towable air compressors, generators and light towers, concrete saws, earth compactors and rollers, backhoes, motor graders, skid-steer loaders, bulldozers, wheel loaders, trenchers, utility tractors, excavators, forklifts, and sweepers), and other related attachments and equipment);

2. Low Speed Vehicles (i.e., a limited use automobile or truck that has a maximum speed greater than 20 miles per hour (mph) but not more than 25 mph and has a GVWR less than 3,000 pounds);

3. School Buses (i.e., every motor vehicle owned, leased or contracted for by a School and operated for the transportation of pupils under the age of 21 years, children of pupils, teachers and other persons acting in a supervisory capacity, to or from School or School activities (i.e., any program for the benefit of pupils, sponsored and supervised by school officials), but does not include a bus designed and sold for operation as a common carrier in urban transportation); and

4. Transit Buses that will be purchased with FTA funding and are available from any OGS Contract awarded under Group 40523 Transit Buses.

5. 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).

C. NYS Vehicle Marketplace Mini-Bid Process.

Note: All forms and documents referenced below are located at the Vehicle Marketplace website at https://ogs.ny.gov/new-york-state-vehicle-marketplace.

Authorized User purchases under this Contract shall be made through a competitive Mini-Bid process conducted by the Authorized User, as summarized below. Detailed guidelines and best practices for developing the Mini-Bid are also included on the *Buyer Guide* document. 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. Develop Vehicle Specifications. Identify Vehicle needs and develop specifications for the Mini-Bid request. The request may be either for specific vehicles or for any Vehicles that meet the specifications provided. For assistance with determining specifications, visit the manufacturer's website for a description of standard features and options for a particular model, or research different Vehicles at a Vehicle specification resource website. Vehicle Dealers may also assist with questions about the Vehicles that they offer. For links to manufacturer's and Vehicle specification resource websites see https://ogs.ny.gov/vehicle-specification-resources-and-vehicle-manufacturers. For additional best practices on the development of vehicle specifications, see the *Buyer Guide.*

For State Agencies subject to State Finance Law (SFL) §163-c, Purchase or lease of zero emission vehicles and charging or fueling infrastructure, consider if a requirement for "Final Assembly in USA" should be included. Unless fully or partially waived, SFL §163-c requires that agencies include a requirement in any procurement for the purchase of light-duty, non-emergency ZEVs (see definition on Form A), that final assembly of the ZEV and charging or fueling infrastructure occurs in the United States. The partial waiver for the current calendar year, which includes a minimum annual Final

Assembly in USA percentage of 8% for such Vehicles, is posted on the OGS website at https://ogs.ny.gov/waiver-state-finance-law-ss-163-c-buy-american-requirements.

2. **Obtain Approvals**. Buyers are required to obtain all internal and/or external approvals required by its organization or oversight authority prior to initiating a Mini-Bid through the NYS Vehicle Marketplace.

   Note: For Executive Agencies and other State entities whose purchases are subject to review by OGS Fleet Management, email the Mini-Bid Request form and Additional Vehicle Specifications document to OGS Fleet Management at OGS.sm.Fleet.Admin@ogs.ny.gov prior to distributing the form to the Contractors. Include your B-1184 Number and Approved Business Case Number in the email. OGS Fleet Management will review the Mini-Bid Request against your approved Business Case and issue pre-approval for the Mini-Bid Request prior to distribution.

3. **Complete Form A**. Download *Form A: Mini-Bid Request* (Single OEM or Chassis-Body, as applicable), from the Buyer section of the Vehicle Marketplace website (https://ogs.ny.gov/vehicle-buyers) , and complete the form. Instructions are included on the "Buyer Instructions" tab of the form. When the form is complete, save the "Mini-Bid Request" tab of the form as a PDF.

4. **Create an "Additional Vehicle Specifications" Document**. Form A only collects basic information about the Vehicle(s) requested (e.g., 2024 Ford Escape SE or AWD sedan, 6-cylinder engine). Any additional detailed specifications must be provided on a separate Additional Vehicle Specifications document (Excel, Word or PDF format) that must be included in the distribution of the Mini-Bid Request. A summary of guidelines for this document are provided on Form A, and more detailed guidelines and best practices are provided in the *Buyer Guide* (https://ogs.ny.gov/system/files/documents/2023/10/award-23166-buyer-guide.pdf).

5. **Distribute the Mini-Bid Request to Contractors**. The Buyer must email the Mini-Bid Request to the Vehicle Dealers. Only Vehicle Dealers that are Contractors under Award 23166 are eligible to receive the Mini-Bid Request. The email must include the PDF of the "Mini-Bid Request" tab of *Form A: Mini-Bid Request,* created in the previous step, and the Additional Vehicles Specification document (if applicable), Use the Excel *Mini-Bid Distribution Tool,* and email template, located at the Buyer section of the Vehicle Marketplace website, for the email distribution. Instructions are included on the "Buyer instructions" tab of the tool.

   The Vehicle Dealers are 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, and the OGS Contract Administrator will update the Excel *Mini-Bid Distribution Tool* accordingly. The Buyer is responsible for verifying that the current version of the *Mini-Bid Distribution Tool,* posted at the Vehicle Marketplace website, is used for all Mini-Bid Requests.

   Additional guidelines for the distribution of Mini-Bid Requests:
   1. Separate Mini-Bid Requests should be distributed for Vehicles with different specifications
   2. Do not include multiple Form As in one Mini-Bid Request;
   3. Do not send the entirety of the *Form A: Mini-Bid Request* to Vehicle Dealers. Only the Mini-Bid Request portion of this workbook should be distributed to Vehicle Dealers.

6. **Answer Bidder Questions**. Vehicle Dealers will submit any questions regarding the Vehicle specifications, and other information included with a Mini-Bid Request, directly to the Buyer requesting the Vehicle(s). The Buyer is responsible for answering Vehicle Dealer questions. If the answers to the questions result in substantive changes to the Vehicle specifications, the Buyer should reissue the Mini-Bid Request.

7. **Receive Responses**. Each Mini-Bid Request shall include contact information for the Buyer requesting the Vehicle(s). Vehicle Dealers will review the Mini-Bid Request, and email Bids directly to the Contacts listed on the request using the Mini-Bid Response Form (Form B). Vehicle Dealers must submit responses on Form B: *Mini-Bid Response* (Single OEM or Chassis-Body Vehicle, as applicable), Vehicle Dealers should see the *Dealer's Guide* (https://ogs.ny.gov/system/files/documents/2023/09/award-23166-dealer-guide.pdf) for additional guidance on How to Respond to Mini-Bids.

The bid submittal deadline for each Mini-Bid must be listed in the Mini-Bid Request, as the "Mini-Bid Response Due Date." From the "Mini-Bid Release Date" (i.e., the date the Mini-Bid is distributed to Vehicle Dealers, Vehicle Dealers shall have five (5) business days to submit a response for Single OEM Vehicles, and fifteen (15) business days to submit a response for a Complete Vehicle that includes both a Chassis and a Body, and also for a Chassis-only or a Body-only request. The Mini-Bid Response Due Date may be set with a longer or shorter duration than the standard five (5) or fifteen (15) business days at the discretion of the Buyer.

The Vehicle Dealer is responsible for ensuring that its response is accurate and complete. The Vehicle Dealer must enter any bid deviations or other additional information applicable to the Mini-Bid Response in the designated field on *Form B. Mini-Bid Response Form.* A bid submitted in a format other than *Form B: Mini-Bid Response Form* (Single OEM or Chassis-Body, as applicable), shall be considered non-responsive and the Mini-Bid Response shall be disqualified.

8. **Timeframe for offers in Mini-Bids**. The Vehicle and pricing offered in a Mini-Bid Response is firm for the timeframes listed below. Once the Vehicle Dealer has accepted a Purchase Order (see Contract Section 2.12 *Ordering*), the Vehicle Dealer 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 Request. In order for a Mini-Bid Response to be responsive to a Mini-Bid Request involving Pre-Existing Inventory Vehicle(s), the Vehicle Dealer 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 Request. Vehicle Dealer's failure to retain the Pre-Existing Inventory Vehicle(s) for such period of time shall render Vehicle Dealer's Mini-Bid Response non-responsive and the Mini-Bid Response shall be disqualified.

9. **Evaluate and Award the Mini-Bid**. The Buyer is responsible for evaluation and award of the Mini-Bid. Each Mini-Bid will be awarded to the responsive Bidder with the lowest price, based on either 1) the NYS Price For Vehicle, 2) the Total Price For Mini-Bid, or 3) the Grand Total Price For Mini-Bid, as applicable to the type of Mini-Bid Request (see Contract Section 2.1 *Mini-Bid Method of Award*).

    The Buyer shall evaluate all responses received, and is responsible for verifying that the Vehicle(s) offered meet the Vehicle Specifications that were included in the Mini-Bid Request. Buyers may use the Excel *Mini-Bid Ranking Tool,* available at the Vehicle Marketplace website, to assist with ranking the responses received from Vehicle Dealers.

    The Contractor shall, upon request of the Buyer, submit a Build Sheet, OEM Pricelist and Contractor-Published Pricelist, as applicable, to the Buyer prior to award of the Mini-Bid.

10. **Notify Bidders**. Upon determination of either award or that an award shall not be made, the Buyer shall issue a notification, via email, to all Vehicle Dealers that submitted a Mini-Bid Response. Templates for the notification are included at the Vehicle Marketplace website. Notification of tentative award should include the final number of Vehicles that the Buyer intends to issue a Purchase Order for.

11. **Issue the Purchase Order**. After notice of tentative award of the Mini-Bid, the Buyer shall issue a Purchase Order, or other ordering instrument, to the Vehicle Dealer following the Buyer's standard procedures (see Contract Section 2.12 *Ordering)*. The Buyer, at its discretion, may request lower pricing for a Vehicle from the Vehicle Dealer that is the tentative awardee prior to issuance of a Purchase Order. The Vehicle Dealer may offer lower pricing, but is not obligated to do so (see Contract, Appendix B, Section 13 *Pricing*). The Buyer 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 Buyer's discretion, the Vehicle Dealer and Buyer shall conduct a pre-production meeting in order to ensure complete and accurate understanding of the Buyer Specifications and delivery requirements. See Contract Section 3.13 *Pre-Production Meeting.*

Note: In accordance with the Contract (Appendix B *Purchase Orders*), Purchase Orders shall be effective and binding upon the Contractor. In accordance with contract section 2.21 *Default on Mini*-Bid, If during the Contract period an Authorized User has issued a Purchase Order on or before the Final Order Due Date for a Vehicle and that Vehicle becomes unavailable or cannot be supplied for any reason (except as provided for in Appendix B, Section 44 *Savings/Force Majeure*), following the issuance of the Purchase Order, a substitute Vehicle deemed by the Authorized User to be equal to the specifications for the Vehicle specified in the Mini-Bid, must be supplied by Contractor if requested by the Authorized User. If the Vehicle awarded in the Mini-Bid (i.e., Model Year, Make, Model, Model Code) is not available or not deemed equal to the specifications for the Vehicle specified in the Mini-Bid Request, then Contractor must supply a similar Vehicle that meets the specifications for the Vehicle specified in the Mini-Bid Request. The price for the substitute Vehicles shall be equal to or less than the price for the Vehicle provided in the Mini-Bid.

Alternatively, the Authorized User may, at their sole discretion, cancel the order and purchase the Vehicle from other sources. In such event the Contractor shall reimburse the Authorized User for all excess costs over the Contract price for the Vehicle, Chassis or Body that is unavailable or cannot be supplied (except as provided for in Appendix B, Section 44 Savings/Force Majeure).

12. **Complete the Procurement Record**. Upon completion of this Mini-Bid process, the Buyer must document the outcome of the Mini-Bid for its procurement record. This should include justification of method of award. If at least three (3) Mini-Bid Responses are not submitted, the Buyer must justify the reasonableness of price. The Buyer must also ensure that copies of the documents are maintained for audit purposes following the Buyer's standard procedures.

D. Buyer Procurement Rights

Buyers hereby reserve the right in a Mini-Bid to:

1. Reject any or all responses received in response to the Mini-Bid Request;
2. Withdraw the Mini-Bid Request at any time, at the Buyer's sole discretion;
3. Make an award under the Mini-Bid Request in whole or in part;
4. Disqualify any Vehicle Dealer submitting a response whose conduct and/or proposal fails to conform to the requirements of the Mini-Bid Request;
5. Seek clarifications and revisions of Mini-Bid Responses;
6. Prior to the Mini-Bid Response Due Date, amend the Mini-Bid Request specifications to correct errors or oversights, or to supply additional information, as it becomes available;
7. Prior to the Mini-Bid Response Due Date, direct Vehicle Dealers to submit modifications addressing subsequent Mini-Bid Request amendments;
8. Change any of the schedule dates with notification via email to all Vehicle Dealers that were initially invited to participate;
9. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Vehicle Dealers;
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 Vehicle Dealer's Mini-Bid Response in selecting the optimum configuration.
13. Negotiate with the Vehicle Dealer responding to the Mini-Bid Request, within the Mini-Bid Request requirements, to serve the best interests of the State. This includes requesting clarifications of any or all Vehicle Dealers' 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 Vehicle Dealer's Mini-Bid Response and/or to determine a Vehicle Dealer's compliance with the requirements of the Mini-Bid;
15. Select and award the Mini-Bid to other than the selected Vehicle Dealer in the event of unsuccessful negotiations; and

16. Use information obtained through site visits, management interviews, and the state's investigation of a Vehicle Dealer's qualifications, experience, ability or financial standing, and any material or information submitted by the Vehicle Dealer in response to the agency's request for clarifying information in the course of evaluation and/or selection under the Mini-Bid.

5. ORDERING

Purchase Orders, or other ordering instrument, 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 Reference 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.*

6. 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 Reference 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

7. 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.

8. ADVANCED CLEAN TRUCKS (ACT) REGULATION

For your information, in December 2021, New York State adopted the California Air Resources Board's Advanced Clean Trucks (ACT) Regulation (6 NYCRR Subpart 218-4). ACT applies to medium- and heavy-duty vehicles (M/HDVs), defined as on-road vehicles with a gross vehicle weight rating (GVWR) greater than 8,500 pounds. The regulation consists of two sections: the first (6 NYCRR 218-4.1) is specific to M/HDV manufacturers only, while the second (6 NYCRR 218-4.2) is specific to public or large private fleet owners or brokers which operated or dispatched M/HDVs under their common ownership or control in New York State. The ACT regulation requires applicable M/HD vehicle manufacturers to sell a percentage of their total sales in New York State as zero-emission vehicles (ZEV).

Essentially, manufacturers of these vehicles earn credits for each Zero Emission Vehicle (ZEV) of theirs that is sold and registered in New York State. Manufacturers can then apply the credits they earn for sold ZEVs towards vehicles that are sold with internal combustion engines (ICE). If a manufacturer does not make ZEVs or does not have enough credits to counteract the sale of ICE vehicles the manufacturer can either purchase credits or pay penalties. While purchasers are instrumental to the success of this regulation, the ACT regulatory compliance applies to the manufacturer - not the purchaser.

The New York State Department of Environmental Conservation is responsible for identifying which M/HDVs can be exempt from the ACT regulations.

More information regarding the ACT Regulations can be found on various websites such as:

1. https://www.governor.ny.gov/news/governor-hochul-announces-adoption-regulation-transition-zero-emission-trucks
2. https://govt.westlaw.com/nycrr/Browse/Home/NewYork/UnofficialNewYorkCodesRulesandRegulations?guid=Ib5df7ba0b5a011dda0a4e17826ebc834&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)&bhcp=1
3. https://dec.ny.gov/environmental-protection/air-quality/controlling-motor-vehicle-pollution/heavy-duty-vehicles
4. https://www.dot.ny.gov/nypermits/faqs#:~:text=F.%C2%A0%20What,side%20door%20jamb.

9. 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://ogs.ny.gov/procurement/ogs-procurement-services-centralized-contract-eligibility-application). 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.

10. 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

Authorized Users are also encouraged to visit https://go.procurated.com/new-york/ to leave comments and rate our Contractors. You will be asked to create a free account if you don't already have one.

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