

Group 40500– Award 22904 Class 3-8 Vehicles

HOW TO USE THE CONTRACTS

PROCUREMENT METHOD

The following procurement instructions shall apply to the Contracts under Award 22904. Authorized User purchases under this Award shall be made through a competitive Mini-Bid conducted via the Vehicle Marketplace, facilitated by OGS, as described in further detail below. The Vehicle Marketplace is located on the OGS website at the link below. To request a vehicle, click on “Authorized Buyers,” and download Form A (Class 3-8): *Mini-Bid Request*. If you need assistance with the Vehicle Marketplace, contact the Vehicle Marketplace Team at NYSPro.VehicleMarketPlace@ogs.ny.gov.

Vehicle Marketplace: <http://vehicles.nyspro.ogs.ny.gov>

- 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 Chassis Discounts and available Dealers and OEM Product Lines on the OGS website under Contract Award 22904.
- C. Vehicle Marketplace.
Authorized User purchases under this Contract shall be made through a competitive Mini-Bid conducted via the Vehicle Marketplace, facilitated by OGS, as described below. 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. See Appendix C: *Class 3-8 Vehicles Contract Documents: Number 5: Vehicle Marketplace Forms*, for forms used in the Vehicle Marketplace.
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 Vehicle Marketplace. Upon internal/control agency approvals, the Authorized User shall complete Form A (Class 3-8): *Mini-Bid Request*, and submit the completed Form A (Class 3-8): *Mini-Bid Request* to OGS for processing. Executive Agencies, as designated on the Form A, must email their request to OGS.sm.Fleet.Admin@ogs.ny.gov. All other Authorized Users must email their request to NYSPro.VehicleMarketPlace@ogs.ny.gov.
 - a. Form A (Class 3-8): *Mini-Bid Request* shall identify such things as 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), Aftermarket Component Provider(s), delivery requirements and locations, and any additional required terms for the Mini-Bid.
 - b. An Authorized User may request a Chassis only, Body only, or a Complete Vehicle. If the Authorized User shall supply the Chassis or Body to be installed by the Contractor on the Vehicle that has been

- requested on Form A: (Class 3-8): *Mini-Bid Request*, then the Authorized User shall be required to provide specifications for that Chassis or Body for the Mini-Bid.
- c. A Mini-Bid that does not include a Chassis, Body or Complete Vehicle (e.g., a request for a stand-alone Option or Aftermarket Component) shall not be processed by OGS.
 - d. At the discretion of the Authorized User, the Authorized User Specifications for the Vehicle identified on Form A: (Class 3-8): *Mini-Bid Request* may be issued as an RFC and be posted on the Vehicle Marketplace website, prior to issuing a Mini-Bid, for the purpose of soliciting comments and suggestions from Contractors regarding said specifications.
2. Upon completion of OGS review of the Form A (Class 3-8): *Mini-Bid Request*, OGS shall assign an RFC or Mini-Bid Number, as applicable, to the request. OGS shall provide notification of the RFC or Mini-Bid to the Contractors in the following manner:
 - a. Vehicle Marketplace posting. An RFC or Mini-Bid shall be posted to the Vehicle Marketplace website (<http://Vehicles.nyspro.ogs.ny.gov/>); and
 - b. Email distribution. An email notification of the Vehicle Marketplace posting shall be distributed to all Contractors under Award 22904 within one (1) hour of the posting. Such notification shall be sent to the email address(es) set forth in Appendix C: *Class 3-8 Vehicles Contract Documents: Number 1: Contractor Information*. 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.
 3. From the date of OGS posting of Form A (Class 3-8): *Mini-Bid Request*, Contractors shall have five (5) Business Days to submit comments and suggestions to the Authorized User in response to an RFC, and fifteen (15) Business Days to submit Form B (Class 3-8) *Mini-Bid Response* in response to a Mini-Bid. OGS reserves the right to set RFC and Mini-Bid response submittal deadlines that are shorter or longer than the Business Days stated herein. The response submittal deadline for each RFC and Mini-Bid shall be posted on the Vehicle Marketplace website. OGS shall remove the RFC and Mini-Bid postings from the Vehicle Marketplace website by the close of business on the first Business Day immediately following the response submittal deadline date.
 4. The RFC and Mini-Bid postings on the OGS website shall include contact information for the Authorized User requesting the Vehicle(s).
 - a. RFC. All comments and suggestions from Contractors regarding Authorized User Specifications and other information posted for an RFC shall be directed via phone or email to the contacts identified on the RFC posting.
 - b. Mini-Bid. All questions regarding the Authorized User Specifications and other information posted for a Mini-Bid shall be directed to the contacts identified on the Mini-Bid posting. The Authorized User shall be responsible for answering Contractor questions regarding the Authorized User Specifications and other information posted for a Mini-Bid, and are instructed to provide the answers to all questions asked to all of the Contractors using the email address(es) set forth in Appendix C: *Class 3-8 Vehicles Contract Documents: Number 1: Contractor Information*.

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.

OGS reserves the right to create a formal question and answer period process for Mini-Bids, and to post a question and answer document created by the Authorized User as part of that process.
 5. A Contractor that offers a Vehicle in response to a posted Mini-Bid must provide the Mini-Bid response on Form B (Class 3-8): *Mini-Bid Response*, which is an Excel workbook that is available for download from the

Vehicle Marketplace website. Form B (Class 3-8): *Mini-Bid Response* includes Contractor response sections for Contractor information, Chassis and Body information, and pricing information. A Contractor submitting a Mini-Bid response for a Mini-Bid must save the blank Excel worksheet to its computer, enter the required information on the "Response Summary" worksheet and on the "Item" worksheets for each Item applicable to the Mini-Bid, and then email the completed Form B (Class 3-8): *Mini-Bid Response* to OGS at NYSPro.VehicleMarketPlace@ogs.ny.gov. Instructions for completion and submittal are included on the form.

Form B (Class 3-8): *Mini-Bid Response*, Part D: *Additional Information* provides the Contractor with a field to enter bid deviations or other additional information applicable to the Mini-Bid. A Contractor shall use this field to identify issues related to the providing the Vehicle requested by the Authorized User.

A Mini-Bid response submitted in a format other than Form B (Class 3-8): *Mini-Bid Response* shall be considered non-responsive and the Mini-Bid response shall be disqualified.

6. A Contractor that chooses to not offer a Vehicle in response to a posted Mini-Bid is requested to complete and submit Form B (Class 3-8) *Mini-Bid Response* (No Bid) to OGS at NYSPro.VehicleMarketPlace@ogs.ny.gov. A Contractor is requested to include on this form a reason that a "No Bid" is being submitted in response to the posted Mini-Bid. Submittal of this form is not mandatory, however it is strongly recommended if the Contractor is a Dealer for the Vehicle specified in the Mini-Bid.
7. Timeframe for offers in Mini-Bids.
 - a. If providing Chassis and Bodies Built to Specifications. The timeframe for offers shall be as specified in Appendix B §23 *Timeframe for Offers*.
 - b. If providing Pre-Existing Inventory, 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, the Contractor is required to retain the Pre-Existing Inventory 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 for such period of time shall render Contractor's Mini-Bid response non-responsive and the Mini-Bid response shall be disqualified.
8. OGS shall send all responses received in response to a Mini-Bid via email to the Authorized User contact designated on Form A (Class 3-8): *Mini-Bid Request* by the close of business on the first Business Day immediately following the Mini-Bid response submittal deadline date. The Authorized User shall be responsible for evaluation and award of the Mini-Bid. Authorized Users are instructed to notify the Contractors of award or non-award within ten (10) Business Days of receipt of Mini-Bid responses from OGS.
9. The Authorized User shall evaluate all Mini-Bid responses received in response to the Mini-Bid, and may request verification 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 on Form A (Class 3-8): *Mini-Bid Request*.

The Authorized User must note justification of method of award on Form C (Class 3-8): *Mini-Bid Report of Use*. If at least three (3) Mini-Bid responses are not submitted, the Authorized User must justify the reasonableness of award on Form C (Class 3-8): *Mini-Bid Report of Use*.
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, 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.

A Contractor may submit a Mini-Bid response for a Vehicle OEM to be provided by a Dealer that is not set forth in Appendix C: *Class 3-8 Vehicles Contract Documents*: Number 1: *Contractor Information*, provided that

the Contractor submits a request to add the OEM to the Contract, in the form and format contained in Appendix C: Number 4: *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.

11. 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 Section II.12.1 *Purchase Orders*). The Authorized User, at their 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 Appendix B §15 *Pricing*). Upon receipt of the Purchase Order, 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 Section III.3 *Pre-Production Meeting*.
12. Upon completion of this Mini-Bid process, the Authorized User must provide Form C (Class 3-8): *Mini-Bid Report of Use*, with any supporting documentation to NYSPRO.VehicleMarketPlace@ogs.ny.gov, or other address designated by OGS, and ensure that a copy of the documents is also 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 Agency'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 Vehicle Marketplace and via email distribution 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 (e.g., if it is determined at the pre-production meeting that the Authorized User Specifications shall need significant adjustments to meet their Vehicle needs), or, optionally, in other specified circumstances as detailed in the Mini-Bid requirements; 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.

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 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.

A. PURCHASE ORDERS

Authorized User Purchase Orders are to include the following information:

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

B. 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:

1. Contract Number;
2. Contractor business name
3. Vendor ID Number
4. Vehicle Marketplace Mini-Bid Number;
5. General Description of Vehicle(s);
6. Make, Model and Model Code of the Chassis and Bodies;
7. Option Code(s) and descriptions, if applicable;
8. Aftermarket Components Make Model, part numbers and descriptions, if applicable;
9. Calculation of the Total NYS Contract Price for the Chassis and Bodies;
10. Total Delivery Charge; and
11. Breakdown of Liquidated damages, if any (see III.3.6 *Liquidated Damages*).

It is strongly advised that all contract users FOLLOW-UP WITH THE CONTRACTOR after submitting their purchase order, whether it was submitted by mail, electronically or by fax. This is to ensure that the contractor received and placed your order.

Upon receipt of your vehicle and processing payment, be sure to audit your invoice to ensure that the correct NYS Discount, and other pricing submitted with the Mini-Bid response, was used. If itemized pricing is not included in your invoice, please contact the Procurement Services Contact Person listed on summary page of this Award. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes.

CONTRACT PAYMENTS

Payments cannot be processed by Authorized Users until the Vehicles have been delivered and accepted in accordance with Section III.5 *Delivery*. Payment shall be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in Section II.12 *Purchase Orders and Invoicing*. See also Appendix B §48 *Contract Invoicing*.

"OGS OR LESS" GUIDELINES APPLY TO THIS CONTRACT

Purchases of the Vehicles 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 Vehicles from sources other than the Contractor provided that such Vehicles are substantially similar in form, function or utility to the Vehicles 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.

NON-STATE AGENCIES PARTICIPATION

Upon request, all eligible non-State agencies must furnish Contractor with the proper tax exemption certificates and documentation certifying eligibility to use the Contract. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS Procurement Services Customer Services at 518-474-6717.

POOR PERFORMANCE

Authorized Users should notify 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
Procurement Services
Customer Services Coordination
38th Floor Corning Tower
Empire State Plaza
Albany, NY 12242

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

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