

Instructions to Bidders

INSTRUCTIONS TO BIDDERS

EXAMINATION OF DOCUMENTS

Carefully examine and be familiar with the Bidding and Contract Documents.

Examine the information concerning subsurface or other latent physical conditions. It is presented in good faith but is not intended as a substitute for personal investigation, interpretations or judgment of the Contractor.

VISIT TO THE SITE

Visit the site of the work prior to submitting bid. Phone Designated Contact listed on the Notice to Bidders for appointment 24 hours in advance of visit.

Become familiar with restrictions and regulations relating to the Facility. Existing restrictions and regulations will not be considered as grounds for any additional cost over the Contract sum.

Assume the risk of encountering any subsurface or other latent physical condition which can be reasonably anticipated on the basis of documentary information provided by the Office of Parks, Recreation and Historic Preservation (the Office) and from inspection and examination of the site.

Interpretations of Contract Documents by Facility personnel are not binding.

RESOLUTION OF DISCREPANCIES AND AMBIGUITIES

Direct all questions regarding the intent or meaning of the drawings or specifications to the contact person identified on the cover of the Contract Documents. Such an inquiry may be telephoned or submitted in writing using provided RFI form. The reply to such an inquiry, when deemed necessary, will be communicated by Addendum to all persons who have obtained drawings and specifications.

Pre-bid inquiries answered by means other than Addenda will not be binding.

PREPARATION OF BIDS

Bidders shall submit bids on the official form furnished by the Office. Make no changes of any kind in the bid form phraseology, or anywhere on the bid form. Fill in all blank spaces legibly and in ink. Once the form has been completed in ink, bidders shall scan and email the bid form and bid security to the email address listed on the Notice to Bidders. The document must be in PDF format – any hyperlink to the file will not be accepted. Please note, there is a 20MB limit when submitting attachments via email. If email is not available to the bidder, an address for hard copies can be obtained from the designated contact identified on the Notice to Bidders. All

amounts shall be given in full in both writing and also in figures. In case of a discrepancy between the amount written in words and that given in figures, the amount written in words is binding. Make no erasures on the bid form. If a mistake is made, use a new bid form. New forms may be obtained at the email address shown on the Notice to Bidders.

When the Contract Documents require alternate price quotations, indicate the amounts to be added to or deducted from the base bid. If the work is to be performed at no change in cost, indicate the word "NONE". Any bid which fails to indicate a sum or the word "NONE", shall be considered informal and may be rejected.

Sign the bid form in the space provided. An officer or a principal of a corporation or a partnership signing for the bidder shall print or type the legal name of the person, partnership or corporation on the line provided and place his or her signature after "SIGN BID HERE". The same procedure shall apply to the bid of a joint venture by two or more firms, except that the signature and title of an officer or a principal of each member firm of the joint venture shall be required.

Note in the spaces provided on the bid form, the Addenda, by numbers and dates, which have been received. If no Addenda have been received, insert the word "NONE".

ADDRESS OF PROSPECTIVE BIDDER

Use street address in addition to a Post Office Box address (if any).

BID SECURITY INFORMATION

Bid Security, in the amount shown on the Notice to Bidders, is required to be submitted with the bid as a guarantee that the bidder will enter into the Contract if awarded, and that the bidder will furnish all required information to enter into the Contract within ten days after receipt of notice of award. All bidders are required to scan their bid security and include the copy with their electronically submitted bid. The document must be in PDF format – any hyperlink to the file will not be accepted. Please note, there is a 20MB limit when submitting attachments via email. Bid Security shall consist of a bid bond or a certified check or a bank check drawn upon a legally incorporated bank or trust company and payable to the Office of Parks, Recreation and Historic Preservation. The bid bond must be from a Surety company approved by the State. The form of any bid bond and the surety issuing it shall be subject to the approval of the Office. The original hardcopy bid bonds for the two lowest bidders must be postmarked and sent via certified mail within 48 hours of receiving the bid summary from the Office. The Bid Security of the two lowest bidders will be returned upon the acceptance of the Performance and the Labor and Material Bonds and the execution of the Contract by the lowest bidder. The Bid Security of all other bidders will be returned as soon as possible after the low bidder is determined.

NEW YORK STATE BUSINESSES INFORMATION

Contractors are encouraged to use and work with New York State Businesses. Accordingly, bidders are required to complete and submit the form which will allow us to track this information. Please complete and include the form "Encouraging Use of New York State

Businesses in Contract Performance” with your bid. The apparent low bidder will be asked to identify the New York State businesses that will be used.

SUBMISSION OF BID

Submit Bid Form and Bid Security, if required in the Notice to Bidders, via scanned hard copies to the emailed listed in the notice to bidders.

The Contract D number and Company Name should be clearly marked in the subject line of the email, along with the words “BID SUBMISSIONS”.

All bids must be received at or before the time specified on the Notice to Bidders, whether to the email address or the physical mailing address designated for bid opening.

A late bid will be considered if (1) its arrival at the place designated after the time specified can be shown by documentary or other proofs to be due to the mishandling by employees of the Office and (2) that absent such mishandling, the bid would have arrived timely. Delays in the U.S. Mail or any other means of transmittal, including by couriers or agents of the State of New York (State), other than employees of the Office will not suffice to excuse late arrival.

A late bid not eligible for consideration will be returned unopened with notification of the reason for its refusal.

MODIFICATION OF BID

Bid modifications by amendment may be considered on condition that:

1. The amendment arrives before the time set for the bid opening.
2. The amendment is in writing and signed by the bidder.
3. The bid, as amended, conforms in all respects with the Contract Documents.

WITHDRAWAL OF BID

A bid may be withdrawn at any time prior to the time specified for opening.

After the bid opening, a bidder may request the withdrawal of its bid by a written application on the grounds of a demonstrable mistake. Such written application must be made within seven days after the bid opening unless the Office, at its sole discretion, grants a time extension. Upon receiving such written application, the Office will review and decide the bidder’s withdrawal request based on the three elements below. A bid may be withdrawn if, before any detrimental change of position by the State has occurred, the bidder establishes that:

1. a verifiable error occurred in the computation of the bid, and
2. absent the mistake the bid would have been substantially higher, and
3. if directed to proceed with the Contract at the price set forth in the bid, the bidder would suffer a substantial loss on the contract.

Each element must be proven by clear and convincing evidence in order to justify withdrawal. The judgment of the Office shall be final and conclusive. Should the judgment be against allowing withdrawal, then the failure of the bidder to proceed would be cause for forfeiture of its bid bond.

DISQUALIFICATION OF BIDDERS

The State reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of the bidder.

OPENING OF BIDS

Bids shall be opened as announced in the Notice to Bidders. Bidders or their authorized agents are invited to attend via Webex.

AWARD OF CONTRACT

The Contract may be awarded to the lowest responsible and reliable bidder as will best promote public interest.

If alternates are included in the bidding documents, the Office reserves the right to accept or reject any or all alternates. The lowest bid will be determined by the sum of the base bid and, where applicable, the accepted alternates and/or unit pricing in the manner prescribed on the Bid Form.

If alternate base bids are indicated in the bidding documents, the low bid will be determined by the lowest amount bid for any of the alternate base bids.

The Office reserves the right to reject any or all bids, and advertise for new bids, if in its opinion the best interest of the Office will hereby be promoted. In the event that all bids are rejected, each bidder will be so notified.

No later than 45 days after the bid opening, the Office shall accept bids or reject all bids. Written notification of acceptance with the final Contract shall be emailed or delivered to the selected bidder. If the selected bidder fails to execute and return the Contract with the bidder's Performance Bond, Labor and Material Bond, and Certificate of Insurance, within ten days of receipt of notification, the Office shall have the right to reject the bid and select next lowest bidder. In this case, the Bid Security of the first bidder shall be forfeit.

INFORMALITIES

Any bid which fails to conform to the requirements of the Bidding and Contract Documents may be rejected.

The Commissioner or Commissioner's Representative reserves the right to waive as an informality any irregularity contained in any bid or afford the bidder an opportunity to remedy any deficiency resulting from a minor irregularity.

EQUAL EMPLOYMENT OPPORTUNITY

If the value of this contract exceeds \$25,000, no later than seven days after being notified of the award of the contract, the Bidder shall submit, an Equal Employment Opportunity Policy Statement on a form to be provided by the Office.

DETERMINATION OF CONTRACTOR'S RESPONSIBILITY

1. The State Finance Law requires that contracts for public work in the State of New York be awarded to the lowest responsible and reliable bidders as will best promote the public interest.
2. In order to assist the State in determining the responsibility and reliability of the apparent low bidder for any competitively bid contract of \$100,000 or more, and any proposed subcontract work valued at \$100,000 or more, each apparent low bidder and all proposed subcontractors will be required to submit a "New York State Vendor Responsibility Questionnaire For-Profit Construction" (Form CCA-2) prior to contract award or subcontractor approval.
3. The apparent low bidder must submit a completed "New York State Vendor Responsibility Questionnaire For-Profit Construction" (Form CCA-2) to the foregoing address within 24 hours after the bids are opened.
4. The Office recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System, however, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at : http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Office of Parks Recreation and Historic Preservation (if not included already in these documents).

5. ADDITIONAL CONTRACTOR RESPONSIBILITY

(A) Contractor shall at all times during the Contract term remain a responsible vendor. Contractor agrees, if requested by the Office, to present evidence of its continuing legal authority to do business in New York State, its integrity, experience, ability, prior performance, and organizational and financial capacity to carry out the terms of this Contract.

(B) The Office reserves the right to suspend any or all activities under this Contract, at any time, when the Office discovers information that calls into question the responsibility of Contractor. In the event of such suspension, Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, Contractor must comply with the terms of the suspension order. Contractual activities may resume at such time as the Office issues a written notice authorizing resumption of contractual activities.

(C) Notwithstanding the provision of Article 15 of the General Conditions of the Contract pertaining to Termination and Revocation, upon written notice to Contractor and a reasonable opportunity to be heard with appropriate Office staff, this Contract may be terminated by the Office at Contractor's expense where Contractor is determined by the Offices to be non-responsible. In such event, State Parks may pursue available legal or equitable remedies for breach.

OMNIBUS PROCUREMENT ACT OF 1992

1. It is the policy of the New York State Office of Parks, Recreation and Historic Preservation to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned enterprises, as bidders, subcontractors and suppliers on its procurement contracts.
2. Information on the availability of New York State subcontractors and suppliers is available from:
NYS Department of Economic Development
Division for Small Business
One Commerce Plaza, 9th Floor
Albany, NY 12245
Telephone: (518) 473-0499 FAX: (518) 486-7577

NOTE: Companies requesting lists of potential subcontractors and suppliers are encouraged to identify the SIC code, size and location of vendors.

3. A directory of certified minority and women-owned business enterprises is available online at <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp> or from:
NYS Department of Economic Development
Division of Minority and Women's Business Development
625 Broadway
Albany, New York 12207
Telephone: (518) 292-5250 Fax: (518) 292-5803
4. Bidders located in foreign countries are hereby notified that New York State may seek to obtain and assign or otherwise transfer offset credits created by this procurement contract to third parties located in New York State. The successful contractor shall agree to cooperate with the State in efforts to get foreign countries to recognize offset credits created by the procurement contract.

5. When the bid amount is equal to or greater than \$1,000,000, the bidder is required to certify compliance with the Omnibus Procurement Act of 1992 to the Office in its bid proposal.
6. The apparent low bidder will be required to submit documentation of such compliance with the requested documents.

LIQUIDATED DAMAGES

The agreement documents contain a provision that the Contractor will pay liquidated damages for each day of delay in the physical completion of the work.

WORKERS' COMPENSATION INSURANCE AND DISABILITY BENEFITS REQUIREMENTS

A policy covering the obligations of the Contractor in accordance with the Workers' Compensation Law and the Disability Benefits Law covering all operations under the contract, whether performed by the contractor or the subcontractor is required for all contracts. See Article 21.4 and 21.5 of the General Conditions.

ELECTRONIC PAYMENTS

The Office encourages all Contractors and Vendors doing business with New York State to enroll in and receive payments electronically. Visit the State Comptroller's web site: <http://www.osc.state.ny.us/vendors/index.htm#epayment> to enroll in the ePayments Program.

FORMS

Various provisions of the bidding and contract documents may require a bidder or contractor to submit certain forms. Not all forms will be required of all bidders, and some forms, such as Bid Bonds, Performance Bonds and Labor and Material Bonds will generally be provided by others (e.g., the American Institute of Architects - AIA). However, samples and/or copies of all forms are available from the Contact Person(s) designated on the first page of the Bidding and Contract documents. Forms available from the Contact Person include but are not limited to: Reporting forms for State and Federal programs which provide for participation by minority group members and women as suppliers, subcontractors and employees; Contractor's Monthly Activity Report and Application for Payment; Certificate of Acceptance (final payment); Prime Contractor's Certification; Subcontractor's Certification; Workers Compensation and Payroll Forms.



ENCOURAGING THE USE OF NYS BUSINESSES IN CONTRACT PERFORMANCE

Bidder's Name _____ **Date:** _____

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and nation. In recognition of their economic activity and leadership in doing business in New York State (NYS), bidders are strongly encouraged and expected to consider NYS businesses in the fulfillment of the requirements of this contract. Such partnering may be as sub-contractors, suppliers, or other supporting roles (herein collectively called "Subcontractors").

Bidders need to be aware that, if selected, they will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive NYS Subcontractors in performing this contract, including without limitation: (i) purchasing commodities; and (ii) utilizing services and technology. Further, bidders are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with the current State law / this contract.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its NYS business partners. NYS businesses will promote the contractor's optimal performance under the contract, thereby benefitting public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore encourages bidders to provide maximum assistance to NYS businesses in their use of the contract. The potential participation by all kinds of NYS businesses will deliver great value to the State and its taxpayers.

Bidders can demonstrate their commitment to the use of NYS businesses by responding to the questions below (Note: Negative responses will not adversely affect contract selection):

(A) Do you anticipate the need for Subcontractors fulfilling the requirements of this contract?

Yes ____ No ____

(B) Do you anticipate that NYS businesses will be used in the performance of this contract as Subcontractors?

Yes ____ No ____

NOTE: If the answer to question B is Yes, please identify the NYS business that will be used and attach identifying information (e.g. name, address, contact information, nature of business). In addition, please be prepared to provide the NYS Office of Parks, Recreation and Historic Preservation with the amounts paid to NYS businesses on a regular basis (at least quarterly).

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