

**Mini-bid Guidelines
For Certain Service & Technology Contracts
Established by the State of New York
Office of General Services**

Issued: May 2001
Updated: March 2010

Purpose:

This document provides general guidelines about the conduct of the mini-bid process under certain types of back-drop contracts. A back-drop contract results from a process in which vendors respond to an OGS continuous or periodic recruitment Request for Proposals in order to prequalify as a contractor to bid on a later solicitation issued by an Authorized User. The mini bid is intended to be a shortened, condensed procurement process as all contractors are pre-qualified to meet the terms and conditions. The goal of the mini-bid is to solicit the most competitive best value procurement for the Authorized User's specific needs. Prices offered under backdrop contracts are generally established as "maximum not to exceed prices." However, work being bid may be subject to the prevailing wage rate provisions of the New York State Labor Law. Where a competitive mini-bid process is not required, for example in situations where the purchase is under the agency's State Finance Law §112 threshold, an agency is encouraged to seek lower prices than the not to exceed prices in the backdrop contract.

When an Authorized User decides to use an OGS back-drop contract, it should review the specific requirements to determine if issuance of a mini-bid is necessary. These requirements can be found in the Contract Award Notification or, in some cases, a separate policy and procedures manual associated with the particular contract series.

Please note that there are OGS commodity contracts, such as Group 31502 Bituminous Concrete, that offer an optional "Quick Quote" process. Refer to the back-drop contract for specific directions on the "Quick Quote."

Background:

Back-drop contracts are established based on periodic or continuous recruitment, which focuses on an evaluation of the responsibility and responsiveness of the successful contractors. The periodic and continuous recruitment processes result in adding new qualified contractors to the back-drop contract series on an on-going basis. Each contractor in a given contract series operates under the same contractual terms and conditions, thereby ensuring fundamental fairness in the contract creation phase and establishing a level playing field for the mini-bid phase. Prices established for a backdrop contract are generally "maximum not to exceed prices." The contractor provides a competitive price when it responds to the issuance of a mini-bid based specifically on the needs and requirements of the Authorized User.

When an Authorized User needs to acquire services or technology from a back-drop contract, it prepares and issues a Project Definition outlining the specific requirements sought by the Authorized User, in a mini-bid to eligible contractors, thereby engaging in a competitive process. Issuance of a mini-bid request commences a restricted period under State Finance Law §§139-j and 139-k, necessitating compliance with the Procurement Lobbying Act.

An Authorized User that is a State agency is reminded that it must comply with all applicable control agency guidelines, such as the Division of the Budget, the Office of the State Comptroller and if a technology procurement, the Office for Technology.

Backdrop Contracts that Require Mini-Bid

In general, an OGS contract with the “CMS”, “CMT” or “CM___” designation before the contract number will necessitate a mini-bid. An OGS contract with a “PC” may permit usage of the Quick Quote process. OGS encourages Authorized Users to solicit best and final prices from all other contractors. Types of backdrop contracts that typically require the use of the mini-bid process are information technology, financial and building services.

Defining the Project:

Prior to conducting a mini-bid, the Authorized User must prepare a formal Project Definition. It defines the scope of work, establishes the Authorized User’s specific project requirements, evaluation criteria, method of evaluation, award (best value or lowest price) and request for price submittals.

The Project Definition document is an essential element of this process as it sets the framework for all subsequent activities among the Authorized User, the eligible Contractors, and the successful mini-bid Contractor.

Project Definition templates are provided by OGS for these back-drop contracts and are included with the procedures for conducting the mini-bid for each series of contracts.

In general, an outline for a Project Definition may include the following.

I. Overview

Purpose: Provide a general description of the project and give it context within the Authorized User’s mission.

II. Project Scope

Purpose: Specify/define the Authorized User’s expectations from the project.

1. Identify and define project requirements and deliverables:

- (a) Timeframe within which work is to be performed and scheduling constraints. It should be noted that projects may extend beyond the expiration of the back-drop contracts, if allowed for in the backdrop contract. An Authorized User should review the back-drop contract terms and conditions to ensure that the intended project duration is permissible.

Key Events/Dates

Project Definition _____

Pre-Bid Conference/Site Visit _____

Closing Date for Inquiries _____

Submission of Proposal _____

Time Estimates/Goals:

Bid Evaluation and Selection _____

Contract Award _____

Contract Term ____/____/____ to ____/____/____

- (b) Provide the specific facility (location) or groups of facilities where the project is to occur. Note that some back-drop contracts require a site visit. Be sure to include details in the mini-bid.
- (c) Include any applicable goals to promote and assist the participation of New York State Certified Minority and Women-owned Business Enterprises (M/WBE) as subcontractors and suppliers on the contract.
- (d) Include a statement that the Contractor is to comply with all the back-drop contract terms and conditions.

2. Generally the back-drop contract will identify those areas where the Authorized User has the ability to exercise an option with respect to certain terms and conditions. For example, under the Information Technology Services back-drop contract, the Authorized User has an option whether or not it will require the Contractor to submit a bid deposit or a performance/payment bond. Such terms and conditions are intended to allow the Authorized User some flexibility to adapt the back-drop contract to meet its needs. However, options must be exercised within the scope of the back drop contract and cannot in any way modify the back drop contract terms and conditions. For example, an Authorized User and Contractor are precluded from modifying or waiving the limitation of liability provisions or other mandatory requirements. Any uncertainty regarding whether a requirement changes the contract terms and conditions must be discussed with PSG staff responsible for the contract before release of the mini-bid.

III. Project Methodology

Purpose: The Authorized User must specify how the resulting project will be conducted. It must identify the Designated Contact(s), as appropriate. All mini-bids must be conducted in accordance with the back-drop contract instructions, Authorized User's discretionary guidelines, the State Finance Law § 112 threshold and the State Finance Law requirements relative to formal or informal bid procedures.

Cite compliance with terms of the back-drop contract. The Authorized User must become familiar with all sections of the applicable back-drop contract and, specifically aware of those sections that relate to conduct of the project. The Authorized User must ensure that the terms and conditions of its Project Definition are consistent with the back-drop contract requirements.

Confirm the project payment method to be followed, such as acceptance of project deliverables, hourly rates or on a time and materials basis.

IV. Instructions for Submitting a Bid

The Project Definition must set forth an evaluation mechanism for selecting the contractor offering the best value from among the bids received from participating contractors. If an Authorized User determines that lowest price equals best value, this determination must be stated in the solicitation.

The Authorized User may include reserved rights in the mini-bid solicitation, such as the right to disqualify any contractor whose conduct or proposal does not conform to the bidding format specified or to reject all bids submitted for the project.

Contractor Bid Solicitation

Once the Project Definition document is complete and approved by the Authorized User, it will be forwarded to the eligible Contractor population. Prior to issuing the Project Definition it is important for the Authorized User to review the list of eligible contractors on the OGS web site for the service required and follow the instructions for that back-drop contract regarding the distribution of the solicitation. Questions relative to the list of eligible contractors should be addressed to the OGS Procurement Officer referenced on the contract award for further assistance. No advertisement in the NYS Contract Reporter is necessary since the bid is limited only to the eligible Contractors. If required, the Authorized User may establish a Pre-Bid Conference.

Bid Submission

A Contractor electing to respond to the Project Definition must submit its bid to the Authorized User in accordance with the date, time, and return instructions referenced in the mini-bid Project Definition.

Bid Review/Selection

It is the responsibility of the Authorized User to select the winning Contractor based on the method of Award/Evaluation criteria outlined in the Project Definition.

The Authorized User must comply with State Finance Law debriefing requirements. In addition, if a Contractor formally (in writing to the Authorized User) protests the selection of a winning bid, the Authorized User must follow its dispute procedures or those of the Office of the State Comptroller.

Mini-Bid Award

Once a successful bid is identified, the Authorized User issues an award in accordance with its discretionary guidelines, if applicable, and the State Finance Law section 112 threshold as well as other statutory requirements that apply.

If the award is under the Agency's State Finance Law §112 threshold, work may begin immediately. The Office of the State Comptroller ("OSC") will post audit the documentation.

If the award exceeds the Agency's State Finance Law §112 threshold, the Agency must submit the required documentation to OSC and receive prior approval before the start of any work.

Please refer to the State Procurement Council Guidelines for additional details about the required documentation.

Authorized User's Responsibilities for Contract Administration:

Under Contract Administration, the Authorized User undertakes a process to ensure that the project is performed and completed in accordance with contract terms and conditions and includes undertaking corrective action, when necessary, to address problems that might impact the success of the project.

The Authorized User is responsible to:

- Respond to debriefing and disputes relating to the mini-bid solicitation;
- Continue to maintain the Procurement Record;
- Undertake Project Management;
- Engage in Fiscal Management (as it relates to contractor payments);
- Respond to FOIL requests regarding the project; and
- Meet all statutory requirements.

Please refer questions specific to the backdrop contract to OGS and questions specific to contract approval to OSC.