



Contract Award Notification

Title	:	Group 79016 - ON-LINE REVERSE AUCTION SERVICES (Statewide) Classification Code(s): 43 & 56
Award Number	:	<u>23060</u>
Contract Period	:	September 1, 2017 – August 31, 2025
Bid Opening Date	:	June 27, 2017
Date of Issue	:	August 18, 2017 (Revised June 22, 2020)
Specification Reference	:	As Incorporated Herein
Contractor Information	:	Appears on Page 2 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
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**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This Award contains two (2) statewide Centralized Contracts that Authorized Users (AU) can utilize to obtain in-person On-Line Reverse Auction Services. This Solicitation is purely for On-Line Reverse Auction Services. It is not intended to be a complete procurement solution. This Award does not include the capacity to do "self-service" reverse auctions in which Authorized Users perform the on-line reverse auction using software and/or internet facilities supplied by the On-Line Reverse Auction Contractor(s).

PR # 23060

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NOTE: For contract pricing, frequently asked questions and an award summary see the Contractor's Information Page

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>FED.IDENT.#</u>	<u>NYS VENDOR#</u>
PS67839	EASiBUY, LLC 1696 Georgetown Rd Ste J Hudson, OH 44236	38-3974397	1100186895
PS67840	eBRIDGE BUSINESS SOLUTIONS LLC 7501 New LaGrange Rd., Ste 2000 Louisville, KY 40222	20-8344206	1100187557

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

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, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

SCOPE

This Award is a multiple statewide Centralized Contracts to provide Authorized Users (AU) the ability to obtain On-Line Reverse Auction Services through multiple quotes. It is not intended to be a complete procurement solution. This Award does not include the capacity to do "self-service" reverse auctions in which Authorized Users perform the on-line reverse auction using software and/or internet facilities supplied by the On-Line Reverse Auction Contractor.

DEFINITIONS

Capitalized terms used in this Award shall be defined in accordance with Appendix B, Definitions, or as below.

“Auction Event” shall refer to an In Person On-Line Reverse Auction conducted at an Authorized User’s designated location.

“Authorized User (AU)” shall have the meaning as outlined in Section 2 of Appendix B

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“Awarded Supplier(s)” shall refer to the awarded contractor(s) of an Authorized User’s Event, whom will be responsible to pay the Transaction Fee to the Contractor(s) of this Award.

“Business Day” shall refer to Monday through Friday from 8:00 AM – 5:00 PM ET, excluding NYS Holidays and federal holidays.

“Contractor”: shall refer to a vendor which has been awarded a Statewide Contract to provide On-Line Reverse Auction services under this Solicitation.

“Event Administrator” shall refer to the Contractor(s) of this Award.

“Fixed Fee Percentage” shall refer to the percentage the Contractor will apply to the Projected Contract Value of an Authorized User’s awarded contract.

“M-WBE” shall refer to a business certified with NYS Empire State Development (“ESD”) as a Minority- and/or Women-owned Business Enterprise.

“NYS Holidays” refers to the legal holidays for State employees in the classified service of the executive branch, as more particularly specified on the website of the NYS Department of Civil Service. This includes the following: New Year’s Day; Martin Luther King Day; Washington’s Birthday (observed); Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving Day; and Christmas Day.

“On-Line Reverse Auction” shall refer to a process used to buy products and services. When an Authorized User wants to buy a product or service, it may conduct a Reverse Auction via an Internet website. During the auction, bidders of the product or service being auctioned, anonymously bid against each other until time expires. Then the Authorized User determines which bidder(s) is successful based on the pricing obtained from the auction.

“Preferred Source Products” shall refer to those Products that have been approved in accordance with State Finance Law § 162.

“Preferred Source Program” shall refer to the special social and economic goals set by New York State in State Finance Law § 162 that require a governmental entity purchase select Products from designated organizations when the Products meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law § 163, purchases of Products from Preferred Sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State Preferred Sources include: The Correctional Industries Program of the Department of Corrections and Community Supervision (“Corcraft”); New York State Preferred Source Program for People Who Are Blind (“NYSPSP”); and the New York State Industries for the Disabled (“NYSID”). These requirements apply to state agencies, political subdivisions and public benefit corporations (including most public authorities).

“Procurement Services” shall refer to a business unit of OGS, formerly known as New York State Procurement (“NYSPRO”) and Procurement Services Group (“PSG”).

“Projected Contract Value” shall be the dollar amount the bidding entity (Authorized User) has projected the awarded contract value to be worth.

“SDVOB” shall refer to a NYS-certified Service-Disabled Veteran-Owned Business

“Supplier(s)” shall refer to the bidder(s) of an Authorized User’s Event.

“Transaction Fee” shall refer to the payment paid to the Event Administrator by an Awarded Supplier of an Event.

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PHONE SUPPORT DURING EVENT

Event Administrator must provide Authorized User and Supplier telephone support during an Event.

AUCTION TYPES

Contractor(s) provide the following pricing options for an Event:

Event Type	Description
Standard Reverse Auction	Give specific part numbers and quantities. Bidder gives their unit price for each part number. Lowest total dollars would be the apparent low bidder.
Percentage Off List Price*	The bidder with the highest combined Percent off list would be the apparent low bidder.
Percentage Over Supplier's Cost**	Bidder with the lowest combined Percent over cost would be the apparent low bidder.
Fixed Amount Off List Price*	Bidder with the highest combined amount off list would be the apparent low bidder.
Fixed Amount Over Supplier's Cost**	Bidder with the lowest combined amount over cost would be apparent low bidder.

*These types of On-Line Reverse Auctions are where Suppliers will be providing products with a published list price. Groups of items could be specified with Suppliers having the option of bidding multiple "percentages off list price" or "fixed amounts off list price" for different groups of items. Groups would be weighted based on anticipated purchase volume.

**These types of On-Line Reverse Auctions generally pertain to where Suppliers will be obtaining products from third parties and reselling them to Contract Users. Groups of items could be specified with Suppliers having the option of bidding different "percentages over supplier's cost" or "fixed amounts over Supplier's cost" for different groups of items. Groups would be weighted based on anticipated purchase volume.

OWNERSHIP OF DATA

Data collected from a third party by the Contractor, as part of Contract performance, shall become the property of the Authorized User. Data provided to the Contractor by an Authorized User shall remain the property of the Authorized User. Contractor may not release or make use of such data except as provided by the Authorized User or as authorized in writing by an Authorized User.

PROCUREMENT INSTRUCTIONS FOR AUTHORIZED USERS

Authorized Users shall procure the services listed herein that best meet their form, function, and utility requirements.

Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law, particularly § 162, regarding commodities/services provided by preferred source suppliers.

Pursuant to State Finance Law § 163(10)(c), at the time of purchase, Authorized Users must base their selection among multiple Contracts upon which is the most practical and economical alternative that is in the best interests of the State.

The flat Transaction Fee Percentages and Hourly Rates, included in the Contract, are not-to-exceed percentages/prices. Authorized User shall obtain multiple quotes from Contractors to determine the best value for the Service required. Authorized User shall utilize the Service of the Contractor offering the best value that meets the Authorized User's form, function, and utility requirements, documenting in the procurement record the determination of the criteria used for the selection. Best value may be equated to lowest price.

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The Authorized User will be responsible for supplying all necessary on-site space including internet access, desk, chair, etc. for consulting services.

PRICE

This Award has two (2) different Pricing requirements, (1) On-Line Reverse Auction Event Flat Transaction Fee Percentage and (2) Hourly Rates for additional services. All travel costs for providing these services are at Contractor(s) expense.

1. **Pricing for an On-Line Reverse Auction Event** is a flat Transaction Fee Percentage based on a sliding scale of Projected Spend of the Event. The sliding scale is set at breakpoints of under \$2M, \$2,000,001 - \$5,000,000, \$5,000,001 - \$10,000,000 and \$10,000,001 and over.

An Authorized User of this Contract will not pay the flat Transaction Fee for any On-Line Reverse Auction Event service provided by the Contractor. The Transaction Fee will be the responsibility of the Authorized User's awarded Supplier(s) of an Event. If more than one Supplier is awarded a contract, the Authorized User will notify the Suppliers the Flat Fee to be paid.

2. **Pricing for Hourly Rates** (not to exceed pricing) that an Authorized User will pay directly to the Contractor for the following Services:
 - Consultation on which Projects to Reverse Auction and how to structure the Reverse Auctions
 - Assistance in attracting potential bidders to participate in Reverse Auctions

The total hourly cost of each listed service above, shall not exceed \$25,000 per Authorized User agreement.

ORDERING

Purchase Orders shall be made in accordance with the terms set forth in Appendix B, Purchase Orders. Authorized Users may submit orders over the phone, 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.

All 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, payment terms, date of order, Event location information, Authorized User name, and sales representative.

INVOICING AND PAYMENT

There are two (2) different Invoicing and Payment requirements for this contract.

1. Invoicing and payment for consultation on which projects to reverse auction and assistance in attracting potential bidders' services shall be made in accordance with the terms set forth in Appendix B, 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
- Account 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

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- Invoice Date
 - Invoice Number
 - Invoice Amount
 - Product Descriptions
 - Unit Price
 - Quantity
 - Unit of Measure
 - Dates of Service

Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying ordering systems in use by different Authorized Users.

2. Invoicing and payment for the On-Line Reverse Auction Event shall be conducted between the Authorized User's Supplier(s) and an On-Line Reverse Contractor. The Authorized User shall not pay direct Transaction fees for an Event provided by Contractor. The Awarded Supplier(s) from an Authorized User's Event will be responsible to pay the Fixed Transaction Fee to the Contractor(s) of their Solicitation. If the Authorized User makes multiple awards for an Event to more than one Awarded Suppliers, the Transaction Fee owed to the Contractor will be paid equally by each of the Awarded Suppliers in accordance with amounts and rates awarded.

NYS FINANCIAL SYSTEM (SFS)

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS is currently on PeopleSoft Financials version 9.2. SFS supports requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State Agencies to procure Products in SFS. This application provides catalog capabilities. Contractors with Centralized Contracts have the ability to provide a "hosted" or "punch-out" catalog that integrates with SFS and is available to Authorized Users via a centralized eMarketplace website. Additional information may be found at: <https://nyspro.ogs.ny.gov/content/nys-emarketplace-1>

There are no fees required for a Contractor's participation in the catalog site development or management. Upon completion and activation of an on-line catalog, State Agencies will process their orders through the SFS functionality and other Authorized Users can access the catalog site to fulfill orders directly.

The State is also implementing the PeopleSoft Inventory module in the near future to track inventory items within the item master table. Further information regarding business processes, interfaces, and file layouts may be found at: www.sfs.ny.gov and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

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, 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://www.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.

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EXTENSION OF USE

Contract(s) may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State and the Contractor. Political subdivisions and other authorized entities within each participating state or governmental jurisdiction may also participate in any resultant Contract if such state normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

NEW ACCOUNTS

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agencies shall not be required to provide credit references.

CENTRALIZED CONTRACT MODIFICATIONS

- A. OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new Products at the same or better price level is an example of an update. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.
- B. Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new Products, make price level revisions, delete Products, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.
- C. OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.
- D. All modifications proposed by Contractor shall be processed in accordance with Appendix C, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix C, Contract Modification Procedure. The form contained within Appendix C is subject to change at the sole discretion of OGS.
- E. Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, Modification of Contract Terms.

DRUG AND ALCOHOL USE PROHIBITED

For reasons of safety and public policy, in any Contract, the use of alcoholic beverages or illegal drugs by the Contractor's personnel shall not be permitted in performance of the Contract.

TRAFFIC INFRACTIONS

Neither the State nor Authorized Users will be liable for any expense incurred by the Contractor's personnel for any parking fees or as a consequence of any traffic infraction or parking violation attributable to employees of the Contractor in performance of the Contract.

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**State of New York
Office of General Services
Procurement Services
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one Contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ Contractor: _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

 _____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by FAX to 518/474-2437 or mail to:

OGS Procurement Services
 Customer Services, 38th Floor
 Corning 2nd Tower - Empire State Plaza
 Albany, New York 12242
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