



**MEMORANDUM**

**To:** New York State Procurement Council  
**From:** OGS Preferred Sources Team (as Staff to the New York State Procurement Council)  
**Date:** May 31, 2017  
**Subject:** **NYSID Commodity Application for Preferred Source Designation of Liberty Enterprises 30 Gallon Universal Spill Kits (D4848) and 55 Gallon Oil Spill Kits (D4849)**

**OVERVIEW**

New York State Industries for the Disabled (“NYSID”), in partnership with Montgomery County ARC / Liberty Enterprises (“Liberty”) has submitted an application to the Office of General Services (“OGS”) and Empire State Development (“ESD”) for preferred source designation of 30 Gallon Universal Spill Kits (D4848) and 55 Gallon Oil Spill Kits (D4849). The spill kits consist of a variety of absorbent materials, safety equipment, and handling instructions packed in a large sealable drum-like container. Liberty has many years of experience producing absorbent materials and they now seek to provide some of those materials as part of a kit. Severely disabled workers receive raw materials in bulk, then measure, cut, count, and package absorbent mats to create a finished product. NYSID and Liberty currently offer these absorbent mats as an approved preferred source item. The addition of 30 and 55 Gallon Spill Kits as a NYSID preferred source offering will expand onsite manufacturing and will help ensure the disabled workforce at Liberty are provided with ongoing, meaningful, long-term employment.

**BACKGROUND**

The New York State Procurement Council (“Procurement Council”) delegated authority to OGS to approve applications for new commodity and service offerings meeting all of the following criteria:

- i. The Preferred Source price must be within 10% of the prevailing market,
- ii. The annual sales volume is less than \$500,000.00, and
- iii. An application review by ESD does not identify any objections from the business community.

Any application that does not meet all of the above criteria must be submitted to the full Procurement Council for review and recommendation.

On July 1, 2016, NYSID submitted the application for the 30 and 55 Gallon Spill Kits, a new product offering, to OGS and ESD for concurrent review. OGS is unable to approve the application under our delegated authority based upon ESD’s statement that the addition of 30 and 55 Gallon Spill Kits as a Preferred Source Offering would negatively impact small businesses in NYS. Therefore, the application is being presented to the Procurement Council for a vote.

**LEGAL AUTHORITY**

State Finance Law § 162(3)(b) provides that the Procurement Council may recommend the addition of commodities to the List of Preferred Source Offerings (the “List”) based upon a review of relevant factors as determined by the Procurement Council “including costs and benefits to be derived from such addition and shall include an analysis by the Office of General Services.”

In addition, the Preferred Source Guidelines adopted by the Procurement Council contain detailed requirements for applications to add commodities to the List, set forth in Section X. D., Application Requirements. Such requirements include, among other things: (i) Commodity Specifications, including a recitation as to how the commodity is new or substantially different from the commodities already offered by the preferred source; (ii) Market Information, including information on the potential market for the new commodity; (iii) Client Employment, including the nature of the tasks workers with disabilities will perform; (iv) Preferred Source, identifying of the specific preferred source member organizations that will provide the commodity; (v) Value Added, identifying the value added by the preferred source client labor to the commodity; (vi) Direct Labor Workforce, identifying the number and hours of direct labor to be performed by people with disabilities, including the percentage of direct labor to be performed by workers with disabilities; (vii) Cost/Benefit Analysis, including a summary of projected costs and benefits expected to accrue to the State and the preferred source, as well broader social and economic impacts on client employment and government costs; (viii) Cost/Price Data, providing information sufficient for OGS to

approve the price data and confirm that the price of each commodity will not exceed 15% above prevailing market price; (ix) Current Suppliers, identifying the current suppliers or contract holders of the proposed commodity, if known; and (x) Preferred Source Suppliers, providing the projected first year value of anticipated contracts, information on any proposed suppliers, and any information as to methods employed in selecting such suppliers.

#### NYSID APPLICATION INFORMATION

1. Commodity Specifications
  - a. **Item # D4848: 30 Gallon UNIVERSAL Spill Kit** Contains (1) 30 Gallon Drum w/Lid, (25) Universal Absorbent Mats 15"x19", (6) Absorbent Socks 3"x4", (6) Absorbent Pillows 8"x18", (1) Pair Nitrile Gloves, (3) Disposable bags, and (1) Emergency Book
  - b. **Item # D4849: 55 Gallon OIL Spill Kit** Contains (1) 55 Gallon Drum w/Lid, (50) Oil Absorbent Mats 18"x18", (4) Absorbent Socks 3"x12", (8) Absorbent Pillows 18"x18", (1) Pair Nitrile Gloves, (5) Disposable bags, and (1) Emergency Book
2. Market Scope  
NYSID estimates first year sales at \$10,000 if purchased by NYC Transit, MTA, and NYS municipalities. Upon approval, this product will be available as a preferred source offering to purchasers across the state. Market value is expected to increase as new customers are identified.
3. Client Employment  
This application presents expanded opportunities for meaningful direct disabled employment at Liberty. A successful application will result in additional work for existing employees, and provide Liberty with a basis to provide ongoing employment.
4. Preferred Source  
NYSID and Liberty have been approved to offer absorbent mats as a preferred source commodity since 2007. The disabled workers at Liberty have experience handling the required material and a standing supplier relationship. This new offering will allow Liberty to build upon their prior experience.
5. Value Added
  - a. The Value Added Labor Statement included in the NYSID application states that 10 or fewer employees will provide direct labor for these commodities and that the majority (75%) are people with disabilities.
  - b. Direct disabled labor will count and cut absorbent mats; count and pack absorbent socks and pillows; pack 1 pair of nitrile gloves, 3 disposable bags, and 1 emergency book; affix lid and apply labels. They will move 4 completed drums to a pallet and wrap the pallet for shipping. Assembling these commodities is expected to provide ongoing employment to 5 disabled workers at Liberty.
6. Direct Labor Workforce
  - a. Liberty provides employment, training, day treatment programs, supported employment, residential services, and family support programs to nearly 550 individuals with disabilities.
  - b. NYSID has estimated that annual Spill Kit production will require 97.8588 direct labor hours; 73.3961 of which will be direct disabled labor. The disabled labor ratio is expected to be 75%; in their first year of production
7. Cost/Benefit Analysis  
This application presents the opportunity to sustain the ongoing employment of disabled workers at Liberty. A successful application will result in additional work for existing employees, and provide Liberty with a basis to provide ongoing employment to individuals who might otherwise be dependent upon public resources to meet their basic needs.
8. Cost/Price Data  
NYSID has provided sufficient information to allow the OGS Preferred Source Team to confirm that the prices proposed are below prevailing market prices. This information is supported by the market comparable data included in the NYSID application, #1250 30-55 Gallon Spill Kits (attached).
9. Current Suppliers  
OGS Group 39000 – INDUSTRIAL & COMMERCIAL SUPPLIES AND EQUIPMENT (Statewide) Award 22918 PC67235 offers similar products, and contract sales data estimates the potential annual market value of this commodity application at \$16,850.00.

10. Preferred Source Suppliers  
Suppliers include MTB Sorbents, NJ and Freemont Industrial Corp., Westbury, NY.

#### **STAFF COMMENTS ON THE APPLICATION**

OGS, as Staff to the Procurement Council, has reviewed the NYSID application and confirmed that the application meets the requirements of State Finance Law and the Preferred Source Guidelines, as set forth above.

The application submitted to OGS by NYSID was complete and contained specific product information, comparable pricing, material costs, labor cost, value added labor details, and sufficient information to confirm the that the work being performed by individuals with disabilities adds value, and will support the long term employment of 0.038 FTE's within the disabled workforce at Liberty

Staff noted that these kits would include absorbent mats, which are manufactured on site by disabled workers. By way of the standard application review process, OGS confirmed that these items are being produced, manufactured, assembled, and repackaged with preferred source participation, which provides the value added labor to produce the finished commodity.

Annual sales for the NYSID 30 and 55 Gallon Spill Kits referenced within this application have been estimated at \$10,000.00 and prices proposed do not exceed prevailing market value. OGS Contract sales data indicates that between 2012 and 2016 NYS contract sales for spill kits (all types and sizes) averaged \$16,850.00 annually.

Lastly, OGS has confirmed there are no services included in this application.

#### **ESD REVIEW:**

The ESD memo citing potential impact to NYS small businesses is attached.

#### **STAFF FINDINGS:**

1. The NYSID application submitted to OGS and ESD is complete and meets the requirements of the NYS Procurement Bulletin – Preferred Source Guidelines, § X. D.
2. Based on the labor steps described in the application, OGS has determined that the value added labor (manufacturing, producing, assembling, and packaging) meets the requirements of Preferred Source Guidelines, § B 1-3.
3. OGS also finds the proposed price is below the prevailing market price which was identified under OGS Contract PC67235, W.W. Grainger, Industrial Equipment and Supplies.
4. This application is for two commodities (items). No service offerings are included in this request for approval.
5. Spill Kits similar to the items proposed by NYSID have been available under OGS Centralized Contracts for many years. Annual sales under NYS Centralized Contract have averaged approximately \$16,850.00 between 2012-16.

#### **STAFF RECOMMENDATION TO THE PROCUREMENT COUNCIL**

As detailed above, this application contains absorbent mats, for which NYSID and Liberty Enterprises have received prior preferred source status, and one goal of this application is to leverage these items and create a new "Spill Kit" product line. The addition of Spill Kits will provide purchasers with a preferred source option to meet their purchasing needs, and it will provide ongoing employment to 0.038 FTEs at Liberty.

Based upon the foregoing, Staff recommends that the Procurement Council approve NYSID application #1250-C and designate preferred source status to **30 Gallon Universal Spill Kits (D4848) and 55 Gallon Oil Spill Kits (D4849)**.