

23261 BIDDER QUESTIONS				
Q #	Solicitation Document Name	Document Section (Number & Name)	Question	PSG Responses
1	IFB Main Document	Page 1	There is no signature line for page 1- on page 21 of the Solicitation Section 4.5 pp2 Original paper versions..... "a" states "Pages 1 and 2 of the Solicitation with original ink signatures" Page 1 does not have a signature line, do we sign the bottom of the page?	Pages 1 and 2 of the Solicitation should be submitted with the necessary information completed. The signature is on Page 2.
2	IFB Main Document	1.2. Special Notes To Bidder	<p>If a bid is not awarded by close of business on June 3, 2022, bids are to remain firm in accordance with Appendix B § 19 - Timeframe For Offers, which states that bids must remain firm until a contract is awarded, but may be withdrawn within 60 days or other time period set forth in the Solicitation. If a contract is not awarded by COB 6/3/2022,</p> <p>A) Would participating ESCOs be required to hold their bid firm for 60 days per Appendix B § 19, or</p> <p>B) Would the language from section 1.2 allow for withdrawal of bids after 6/3 with written notice to the commissioner?</p>	<p>A) Yes, bidders must hold prices firm. See Page 2 (Bidder Certification and Affirmation) of Solicitation, and Section 4.12 Firm Offer.</p> <p>B) No, the bids cannot be withdrawn for 60 days. See Section 1.2 - Special Notes To Bidder.</p>
3	IFB Main Document	1.13 Definitions	For the Liberty annual bank balance cash-out, the supplier applies the credit or debit to the invoice?	Yes. See Section 6.7 - Invoicing and Payment: "For Authorized Users receiving service from Liberty Utility Contractor shall provide an audit of the annual bank balance cash-out and the cash-out (credit or debit). The audit shall be performed on an annual basis. Contractor shall provide the audit with the Authorized User's first invoice in the calendar year immediately following the audited service. (if applicable)"
4	IFB Main Document	3.5. Natural Gas Quality and Measurement	Please note that Suppliers are not responsible for the quality of gas that gets delivered to the end user	OGS Procurement Services declines to make the requested change.
5	IFB Main Document	4.3 Price	Can the OGS clarify the requested bandwidth swing for all lots?	All lots are full plant requirements. See Section 1.3 - Estimated Quantities which states "The Contractor must furnish all quantities actually ordered at or below the Contract prices." and Appendix B, Estimated/Specific Quantity Contracts and Participation in Centralized Contracts.
6	IFB Main Document	4.3. Price	References sending Attachment 1 Pricing via email - In Section 4.4 pp 2 it is stated that "E-mail or facsimile submissions are not acceptable" Is submitting Attachment 1 via email mandatory? If so please provide the email that the Attachment 1 should be sent to Per 4.3 page 19	<p>No. Please see revised Section 4.4 - Format of Bid Submission which has been revised to state, "Please note that submitting a Bid by fax or email is not acceptable with the exception of submitting Attachment 1 – Pricing."</p> <p>Attachment 1 – Pricing, in Excel format, can be emailed to the following email: OGS.sm.PS_CM_FleetFuelRoads@ogs.ny.gov. Please see Section 4.3 - Price for more information.</p> <p>In either case, Attachment 1 – Pricing must be received on or before to the bid opening date and time as stated in Section 1.6 - Key Events/Dates.</p>
7	IFB Main Document	4.4	Due to COVID 19 restrictions on the ability to get access to a mailroom/USB, would the state consider an email submission prior to deadline?	OGS Procurement Services declines to make the requested change.
8	IFB Main Document	4.4	Would the state consider waiving the USB requirement?	OGS Procurement Services declines to make the requested change.
9	IFB Main Document		Can you confirm if 'electronic date stamped' signatures will be acceptable for the Original paper version of the bid submission packet, or it must be original 'ink' signature.	OGS Procurement Services declines to make the requested change. Please see Section 4.5 Content, which states with original ink signatures.

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10	IFB Main Document	4.5	Due to COVID 19 - it is very difficult to obtain original signatures due to upper management not being readily available in the office, would the state consider waiving this requirement ?	OGS Procurement Services declines to make the requested change.
11	IFB Main Document	4.12 Firm Offer	A) Due to the extreme volatility in today's commodity market - are suppliers able to withdraw their bid prior to the 60 day award window Per the sentence below? "... or withdrawal of the bid by the winning bidder" B) Or, are suppliers bound to the pricing they submit for 60 days?	A) No. See Section 1.2 - Special Notes To Bidder. B) Yes, Bidders must hold prices firm. See Page 2 (Bidder Certification and Affirmation) of Solicitation, and Section 4.12 Firm Offer.
12	IFB Main Document	4.12 Firm Offer	Can the OGS issue an award letter prior to the hold period due to market volatility? The market can move a \$1/Dth in the matter of a few days	OGS Procurement Services declines to make the requested change.
13	IFB Main Document	4.12 Firm Offer	For the fixed price items, is it possible to request basis prices up front, and then each location can trigger the commodity once awarded?	No, See Section 3.6 - Hedging/Forward Triggering.
14	IFB Main Document	4.12 Firm Offer	If suppliers provide insurance documents with their proposal submission - can this expedite the award time?	No. See Section 1.2 - Special Notes To Bidder
15	IFB Main Document	6.2. Short Term Extension	Please note that any extension price must be mutually agreed upon due to current market conditions due to extreme market volatility	OGS declines to make the change. Please note: Section 6.2 - Short Term Extension which states, "In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State may be extended unilaterally by the State for an additional period of up to 3 months upon notice to the Contractor with the same terms and conditions as the original Contract and any approved modifications. With the concurrence of the Contractor, the extension may be for a period of up to 6 months in lieu of 3 months."
16	IFB Main Document	6.2 Short Term Extension	A) Would a potential short term 3 month contract extension be mutually agreed upon? B) Or are suppliers held to a potential 3 month extension at the same contract price at the discretion of the OGS. C) We feel this section should be subject to the same mutually agreeable terms as the regular 24 month extension clause number 6.1	A) No. Section 6.2 - Short Term Extension states "In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State may be extended unilaterally by the State for an additional period of up to 3 months upon notice to the Contractor with the same terms and conditions as the original Contract and any approved modifications." B) Yes, see Section 6.2 - Short Term Extension C) OGS Procurement Services declines to make the requested change.
17	IFB Main Document	6.4. Price Structure	Should the Commissioner in his or her sole discretion determine during the Contract Term that (i) the Contract price structure is unworkable, detrimental, or injurious to the State, or (ii) the Contract price structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, and no adjustment in the Contract terms and/or pricing is mutually agreeable, the State may terminate the Contract upon 10 business days written notice mailed to the Contractor. If this section of language was invoked would the Contractor/ESCO would we be able to invoke an Early termination fee to recover losses?	OGS Procurement Services declines to make the requested change.
18	IFB Main Document	6.4. Price Structure	A) Would the buyer agree to keep the supplier whole should there be a termination that is not due to a breach of contract by the supplier? B) Would the OGS keep suppliers whole in the event of termination without cause ?	OGS Procurement Services declines to make the requested change. Please see Section 6.27. Appendix B Modifications - The following Appendix B clause Section 43 (Termination) subparagraph (b) (For Convenience) is deleted in its entirety.

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19	IFB Main Document	6.20. New Accounts	Are the additions of new accounts mutually agreed upon?	Yes. See Section 3.1 Delivery: "Any Authorized User, which has not filed a requirement with OGS as of the date of the Bid and requests a Contractor to add a location to the Delivery Schedule, shall be eligible to be added to the Delivery Schedule as a new account at the Contractor's option."
20	IFB Main Document	11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.	We do not put our federal identification number, any federal social security number or vendor identification number on invoices - We would however provide any and all information to ensure prompt payment - w9 form and Ach info can be provided with bid package.	OGS Procurement Services declines to make the requested change.
21	IFB Main Document	15. LATE PAYMENT - Article 11-A of the State Finance Law	Can the OGS define a specific interest rate per month?	According to Article 11-A Section 179-G: "Notwithstanding any other provision of law to the contrary, interest shall be computed at the rate equal to the overpayment rate set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law."
22	IFB Main Document	44. SAVINGS/FORCE MAJEURE	Can this section be subjected to liquidation damages? "Notwithstanding the above, at the discretion of the Commissioner where the delay or failure will significantly impairAfter the first paragraph ending in "without limitation", would the OGS consider adding "Notwithstanding the foregoing, Contractor's liability for any suits, actions, proceedings, claims, losses, damages, and costs will be limited to those which attach before title passes to Buyer."	OGS Procurement Services declines to make the requested change.
23	IFB Main Document	48. REMEDIES FOR BREACH	Regarding section B., would the OGS consider adding: "Buyer will not be excused from its responsibility to pay to pay for Commodity received."	OGS Procurement Services declines to make the requested change.
24	IFB Main Document	48. REMEDIES FOR BREACH	After the first paragraph ending in "without limitation", would the OGS consider adding "Notwithstanding the foregoing, Contractor's liability for any suits, actions, proceedings, claims, losses, damages, and costs will be limited to those which attach before title passes to Buyer."	OGS Procurement Services declines to make the requested change.
25	IFB Main Document	58. LIMITATION OF LIABILITY	Would OGS accept Suppliers Indemnification language as follows? Indemnification; Limitation of Liability: A. Buyer will be responsible for and shall indemnify Seller against all losses, costs and expenses, including court costs and reasonable attorney's fees, arising out of claims for personal injury, including death, or property damage from the Commodity or other charges (collectively, "Losses") which attach after title passes to Buyer. B. Seller will be responsible for and indemnify Buyer against any Losses which attach before title passes to Buyer. C. NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, LOST PROFITS OR SPECIFIC PERFORMANCE.	OGS Procurement Services declines to make the requested change.
26	General		can you please provide a list of accounts as soon as possible?	All Pre-qualified Bidders should have received an Excel spreadsheet that contains all facilities with account numbers via email on 5/12/2022. If you did not receive the email, please request by emailing OGS.sm.PS_CM_FleetFuelRoads@ogs.ny.gov
27	General		Would it be possible to add XXXXXX's early termination language to the contract?	OGS Procurement Services declines to make the requested change.

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28	General		can you please provide a list of accounts as soon as possible?	All Pre-qualified Bidders should have received an Excel spreadsheet that contains all facilities with account numbers via email on 5/12/2022. If you did not receive the email, please request by emailing OGS.sm.PS_CM_FleetFuelRoads@ogs.ny.gov
29	Attachment 5 - Bidder Information Questionnaire	Questions 1 through 8, 10-11, 24, 26 to 28 and 36 to 42	Is this Attachment damaged, I cannot input into these cells.	Attachment 5 has been revised and the cells are unlocked.
30	Attachment 6 - Bidder Submission Checklist	Questions 14 & 15	Please provide updated Web links as the ones in the current document do not work- I am concerned that I am in the right section of the bid and that I receive the most current updates.	Attachment 6 has been revised to correct link, unlock the cells, and question 17 was added confirming Attachment 11- EO16 Certification.
31	Attachment 9 - Delivery Schedule		Will the State be supplying the account numbers for the facilities- especially since many of the accounts are FIRM Capacity Release accounts with required Load Profiles?	All Pre-qualified Bidders should have received an Excel spreadsheet that contains all facilities with account numbers via email on 5/12/2022. If you did not receive the email, please request by emailing OGS.sm.PS_CM_FleetFuelRoads@ogs.ny.gov
32	Attachment 9 - Delivery Schedule		Looking for clarificaion on Lot 76 St Lawrence - the customer typically signs a transport agreement with the utility to bring supply from Empress to the utility citygate. In this arraignment, the receipt point would be at Empress -will this be acceptable? The additional language with the bank balance looks straight forward.	OGS Procurement Services declines to make the requested change.
33	Attachment 9 - Delivery Schedule		Are you able to provide the new Central Hudson Accounts?	OGS Procurement Services will provide, to all Pre-qualified bidders via email, new information about accounts if any becomes available.
34	Appendix B	§ 42	If the commissioner elects to suspend activities for the life of the contract after award, not due to fault of the ESCO, would there be any remedy to the ESCO for costs incurred to procure supply for suspended accounts?	OGS Procurement Services cannot respond to a hypothetical.
35	Appendix B	§ 43	A) Who makes the determination of a 'material breach' of the contract and B) Will written notice of a material breach with a 30 calendar day cure date be provided in the event of a material breach?	A) Pursuant to Section 43(a) a breach can be declared by either the Commissioner of OGS or an Authorized User. B) Written notice will be provided in accordance with Appendix B Section 43(a).