



Office of General Services Procurement Services

Corning Tower, Empire State Plaza, Albany, NY 12242 | <https://ogs.ny.gov/procurement> | customer.services@ogs.ny.gov | 518-474-6717

Piggyback Contract Opportunity – Revised April 18, 2025

BID OPENING DATE: May 1, 2025 TIME: 1:30 P.M. ET INVITATION FOR BIDS NUMBER: 23345	TITLE: Group 40625 – Heavy Equipment (Statewide) Periodic Recruitment – Phase 2 – Heavy Construction Classification Codes: 21,22,23,24,25,39 and 40
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CONTRACT PERIOD:	Upon OSC approval through expiration or termination of Sourcewell Master Contract 011723 for Heavy Construction Equipment with Related Attachments and Technology, or NASPO Master Agreement for Heavy Construction and Industrial Equipment resulting from Solicitation Number OK-MA-192-23, as applicable.
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DESIGNATED CONTACTS: In accordance with the Procurement Lobbying Law [State Finance Law § 139-j(2)(a)], the following individuals are the Designated Contacts for this Solicitation. All questions relating to this Solicitation must be addressed to the Designated Contacts.

Email Address: ogs.sm.ps.heavyequip@ogs.ny.gov

Ian Corcoran Contract Management Specialist Telephone No. (518) 473-9600 Email: ogs.sm.ps.heavyequip@ogs.ny.gov and Ian.Corcoran@ogs.ny.gov	Shannon M. Prica – Kast Contract Management Specialist Telephone No. (518) 473-0482 Email: ogs.sm.ps.heavyequip@ogs.ny.gov and Shannon.Prica-Kast@ogs.ny.gov
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Bidder’s Federal Tax Identification Number: <i>(Do Not Use Social Security Number)</i>	NYS Vendor Identification Number: <i>(See New York State Vendor File Registration Clause)</i>
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Legal Business Name of Company Bidding:

D/B/A – Doing Business As (if applicable):

Street	City	State	County	Zip Code
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E-mail Address:	Company Web Site:
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If applicable, place an “x” in the appropriate box(es) *(check all that apply)*

<input type="checkbox"/> NYS Small Business # Employees	<input type="checkbox"/> Service Disabled Veteran Owned Business	<input type="checkbox"/> NYS Minority Owned Business	<input type="checkbox"/> NYS Women Owned Business
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If you are not bidding, place an “x” in the box and return this page only.
 WE ARE NOT BIDDING AT THIS TIME BECAUSE:

OGS Use Only: # of Binders/Packages: _____ # of USB Flash Drives _____ Documented by: _____

1. INTRODUCTION

1.1 Overview

The New York State (“NYS”) Office of General Services (“OGS”), Procurement Services seeks to establish a set of new Centralized Contracts for various types of Heavy Equipment by piggybacking various cooperative contracts, and housing these piggyback contracts, and subsequent additional or replacement Heavy Equipment piggyback contracts, perpetually under a single contract award number 23345. This will allow Authorized Users to make purchases, including any emergency purchases, faster and more efficiently, and obtain more reasonable pricing.

This Piggyback Contract Opportunity (“Solicitation”) will be in recruitment cycles (“Phases”):

This Phase:

This Phase of this solicitation includes the following type(s) of Heavy Equipment:

- equipment and related supplies or accessories designed or principally intended for heavy construction, including but not limited to: wheeled and tracked backhoes; bulldozers; compactors; cranes; cold planers; road and asphalt compactors; wheeled and tracked excavators; articulated and rigid haulers; wheeled and tracked loaders; motor graders; pavers; reclaimers; scrapers; site dumpers; skid steers; airport/runway, mechanical, parking lot, sidewalk, riding, and walk behind sweeper equipment; and telehandlers.

Under this Phase, OGS will piggyback Sourcewell Contract Number 011723 for Heavy Construction Equipment with Related Attachments and Technology (“Sourcewell Master Contract”) and NASPO ValuePoint Contract for Heavy Construction and Industrial Equipment, resulting from Solicitation # OK-MA-192-23 (“NASPO Master Contract”). However, a prospective Contractor (“Bidder” or “Vendor”) who holds a current Sourcewell Master Contract, or a NASPO Master Contract, and/or an existing Contract under an OGS Centralized Piggyback Contract Award is not automatically eligible for a Contract award. For this Phase, only a prospective Contractor (“Bidder” or “Vendor”) holding a Sourcewell Master Contract or a NASPO Master Contract, who meets the minimum qualifications listed below in Section 2, *Bidder Qualifications*, is eligible for a Contract award.

The resultant Piggyback Contracts are intended to replace the OGS Contracts that fall under Award 22792 - Heavy Equipment. If an entity wishes to hold a Contract under Award 23345 they should submit a bid for this Piggyback Contract Opportunity. If a Bidder holds an OGS Contract under Award 22792 - Heavy Equipment for the same type of equipment Bidder is bidding on under this Solicitation, that OGS Contract under Award 22792 will be deemed immediately terminated upon OSC approval of a Piggyback Contract under Award 23345 for the Bidder.

If a Bidder holds both a Sourcewell Master Contract and a NASPO Master Contract, OGS at its sole discretion will determine which of Bidder’s two Master Contracts will receive an award for a Piggyback Contract (see also Section 2, *Bidder Qualifications*).

This Solicitation outlines the terms and conditions and all applicable information required for submitting a Bid. Bidders should pay strict attention to the Bid submission date and time to prevent disqualification. Bidders are strongly encouraged to read the language of this Solicitation thoroughly and to precisely follow the instructions included in the Solicitation and all attachments and appendices. OGS may conduct future periodic recruitments for equipment and related supplies or accessories designed or principally intended for heavy construction in accordance with Section 5.2, *Periodic Recruitments*.

Bids received during this Phase shall be reviewed and processed in accordance with Section 5.1, *Method of Award*.

Future Phases:

Future Phases of this Solicitation will involve the subsequent solicitation of various types of Heavy Equipment, which may include previously solicited types of Heavy Equipment and Master Contracts, through Periodic Recruitments in accordance with Section 5.2, *Periodic Recruitments*.

The term of the resultant Piggyback Contracts under any Phase of the Solicitation shall begin on the date of approval by OSC, pursuant to Section 1.8, *NYS Comptroller Approval*, and shall end upon the expiration or termination of the applicable master contract, subject to OGS' right to terminate the Piggyback Contracts (see e.g. Piggyback Contract Template Section 2.3, *Contract Term and Extensions*).

The resultant Piggyback Contracts from this Solicitation are intended to replace the OGS Centralized Contracts that currently fall under Award 22792 - Heavy Equipment, in phases. If an entity wishes to hold a Contract under Award – 23345 such entity must submit a bid for this Piggyback Contract Opportunity. If a Bidder holds an OGS Contract under Award 22792 - Heavy Equipment for the same type of equipment Bidder is bidding on under this Solicitation, that OGS Contract under Award 22792 will be deemed immediately terminated upon OSC approval of a Piggyback Contract under Award 23345 for the Bidder.

The following documents, attached hereto, are hereby expressly made a part of this Phase of the Solicitation, as fully as if set forth at length herein:

1. Piggyback Contract Template, which includes the following:
 - a. Base Agreement (the portion of the Contract preceding the Parties' signatures)
 - b. Appendix A – Standard Clauses for NYS Contracts (June 2023)
 - c. Appendix B – General Specifications (April 2016)
 - d. Appendix C – Federal Funding Agency Mandatory Terms and Conditions (October 2023)
 - e. Attachment 1 – *Pricing*
 - f. Attachment 2 – *Insurance Requirements*
 - g. Attachment 3 – *Report of Contract Usage*
 - h. Attachment 4 – *Contractor and Reseller/Distributor Information*
 - j. *[Placeholder for any other attachments as necessary]*
 - i. Master Contract, Sourcewell Contract #011723-XXX [OR Master Contract, NASPO ValuePoint Contract #XXXX].

2. The following attachments:

Attachment 2 – Insurance Requirements
 Attachment 3 – Report of Contract Usage
 Attachment 4 – Contractor/Reseller/Distributor Information
 Attachment 5 – Bidder Certification and Affirmation
 Attachment 6 – NYS Required Certifications
 Attachment 7 – Encouraging Use of NYS Businesses
 Attachment 8 – Bidder Information Questionnaire
 Attachment 9 – Bidder Submission Checklist
 Attachment 10 – Certification Under Executive Order No. 16
 Attachment 11 – Bidder Questions Form
 Attachment 12 – Intent to Bid

1.2 Scope

Scope of this Phase:

The scope of the resultant Piggyback Contracts under this Phase includes equipment and related supplies or accessories designed or principally intended for use in heavy construction, that are available on the Bidder's Sourcewell Master Contract or NASPO Master Contract referenced in Section 1.1, *Overview*, above, and the respective Master Contract price lists, such as:

- a. Wheeled and tracked backhoes
- b. Bulldozers
- c. Compactors
- d. Cranes
- e. Cold planers
- f. Road and asphalt compactors
- g. Wheeled and tracked excavators
- h. Articulated and rigid haulers
- i. Wheeled and tracked loaders
- j. Motor graders
- k. Pavers
- l. Reclaimers
- m. Scrapers
- n. Site dumpers
- o. Skid steers
- p. Airport/runway, mechanical, parking lot, sidewalk, riding, and walk behind sweeper equipment
- q. Telehandlers, and
- r. Parts, supplies, and accessories, related to the upkeep, repair, or maintenance of their offering of equipment.

If awarded a Piggyback Contract, the Piggyback Contract price list shall be the same as the Master Contract price list in effect. If approved for inclusion on the Master Contract price list, additional types of Products that are not related to the above description of this Phase shall not be excluded from the resultant OGS Contract, unless specifically excluded below.

Exclusions from Scope of this Phase:

Excluded Products are listed in the Piggyback Contract Template Section 1.1, Overview and Scope. Unless specifically excluded, the scope of the resultant Piggyback Contract includes all Products approved for inclusion in the Master Contract.

Scope of Future Phases:

The scope of Heavy Equipment to be solicited under future Phases of this Solicitation shall be stipulated in the relevant periodic recruitment documents.

1.3 Estimated Quantities

A Contract resulting from this Phase shall be an estimated quantity Contract. No specific quantities are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities actually ordered at or below the Contract prices. The anticipated dollar value of the award for this Phase, based on historical purchases under previous awards for Heavy Equipment – Heavy Construction Equipment, is approximately \$88,000,000.00 annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the Products and pricing that best meet their needs in the most practical and economical manner. See Appendix B, *Estimated/Specific Quantity Contracts and Participation in Centralized Contracts*.

Numerous factors could cause the actual quantities of Products purchased under a Contract resulting from this Solicitation to vary substantially from the estimates in the Solicitation. Such factors include, but are not limited to, the following:

- Such Contracts may be non-exclusive Contracts.

- There is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases.
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand and actual quantities ordered during the contract period.
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.
- Contract pricing that is lower than anticipated could result in a higher quantity of purchases by Authorized Users than anticipated.
- Contract pricing that is higher than anticipated could result in a lower quantity of purchases by Authorized Users than anticipated.

By submitting a Bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this Solicitation.

1.4 Key Events/Dates for this Phase

EVENT	DATE	TIME
Solicitation Release	March 25, 2025	N/A
Deadline for Submission of Intent to Bid	April 3, 2025	5:00 PM ET
Closing Date for Bidder Questions	April 3, 2025	5:00 PM ET
OGS Procurement Services' Responses to Bidder Questions	April 17, 2025 (tentative)	N/A
Bid Opening / Due Date for Bids for this Phase	May 1, 2025	1:30 PM ET
Contract Approval Date / Award Publish Date	<i>Upon OSC Approval</i>	N/A

1.5 Intent to Bid

Bidders are required to submit an Intent to Bid. A Bidder is requested to indicate its intent to bid by sending an e-mail titled "INTENT TO BID-[BIDDER NAME]" to ogs.sm.ps.heavyequip@ogs.ny.gov on or before the date and time indicated in the Key Events/Dates section and the Intent to Bid must be submitted prior to the Bid Opening Date. Failure to submit an Intent to Bid on or before the date and time indicated in the Key Events/Dates section or an incomplete Intent to Bid may result in your company's Bid being disqualified from an award.

The e-mail should include the Bidder's company name and a contact name and contact information.

A complete Intent to Bid consists of the following required documents:

1. A signed Attachment 12 – Intent to Bid form;
2. NYS Vendor Responsibility Questionnaire (if hard copy) or a copy of the certification (if filed online) certified within the last 6 months;
3. NYS Workers Compensation and NYS Disability Benefits Insurance coverage as referenced herein.

OGS reserves the right to seek clarifications regarding any of the required Intent to Bid documents. OGS will advise all entities that submitted an Intent to Bid of their pre-qualification status via the email address provided with the Intent to Bid. Submission of these forms in no way obligates your company to submit a bid.

1.6 NYS Contract Reporter

Bidders must register with the New York State Contract Reporter ("NYSCR") at <https://www.nyscr.ny.gov> in order to receive notifications about this Solicitation. Navigate to the "I want to find contracts to bid on" page to register for your free account. In order to receive e-mail notifications regarding updates to the content or status of a particular ad, you must "bookmark the ad" on the upper right hand side of the ad, then return to your

Account, view your list of bookmarked ads, and then select “send me notification updates” option listed to the right of the ad. Answers to all questions of a substantive nature will be posted in the form of a question and answer document and released through the NYSCR. Any updates to Solicitation documents will also be posted and released through the NYSCR.

If you do not opt-in to receive notification updates regarding a particular ad, you will not receive e-mail notifications regarding updates, including e-mail notifications regarding the posting of the question and answer document and updates to Solicitation documents.

Be advised that submission of responses to the Solicitation that do not reflect and take into account updated information may result in your Bid being deemed non-responsive to the Solicitation.

1.7 Bidder Questions

All questions regarding this Phase of the Solicitation should be submitted using Attachment 11 – *Bidder Questions Form*, citing the applicable Solicitation document name and document section. The completed form must be emailed to ogs.sm.ps.heavyequip@ogs.ny.gov by the date and time indicated in the *Key Events/Dates* section. Questions submitted after the deadline indicated may not be answered. A Bidder is strongly encouraged to submit questions as soon as possible. Answers to all questions of a substantive nature will be provided to all prospective Bidders in the form of a question and answer document which will be posted to the OGS website and will not identify the Bidder asking the question. Notification of this posting will be advertised in the NYS Contract Reporter (“NYSCR”). Your company must select the “opt-in” option within the Contract Reporter ad to receive notification updates of this Solicitation.

If Bidder intends to submit a Bid that deviates from the requirements of this Phase of the Solicitation in any way, the proposed deviations should be submitted during the *Questions* period for this Phase so that they may be given due consideration prior to the submission of Bids. See *Bid Deviations* for additional information.

1.8 NYS Comptroller Approval

In accordance with Section 112 of the State Finance Law, a Contract resulting from this Solicitation shall not be valid, effective or binding upon the State until such Contract has been approved by the Office of the New York State Comptroller (“OSC”). Purchase orders or other procurement transactions issued under such Contract(s) may also be subject to OSC approval.

1.9 Summary Of Policy and Prohibitions On Procurement Lobbying

Pursuant to State Finance Law § 139-j and § 139-k, this Solicitation includes and imposes certain restrictions on communications between OGS and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest posting, on a governmental entity’s website, in a newspaper of general circulation, or in the procurement opportunities newsletter of intent to solicit offers/Bids under any Phase of this Solicitation through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff, as of the date hereof, are identified on the first page of this Solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Bidder pursuant to State Finance Law §139-j and §139-k. Certain findings of non-responsibility can result in rejection for Contract award and, in the event of two findings within a four-year period, the Bidder is debarred from obtaining governmental Procurement Contracts for four years. Further information about these requirements can be found on the OGS website at: <https://ogs.ny.gov/acpl/>.

1.10 Definitions

Capitalized terms used in this Phase of the Solicitation shall be defined in accordance with Appendix B, Definitions, or as below.

“Administrative Fee” shall mean the quarterly fee payable to the State in the amount of three-quarters of one percent (0.75%) for all sales under this Contract.

“Bid Deviation” shall refer to any variance submitted or proposed by a Bidder, which deviates from, adds extraneous terms to, conflicts with or offers an alternative to any term, condition, specification or requirement of the Solicitation.

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

“Heavy Equipment” shall refer to equipment which is intended for heavy work such as earthmoving, construction, lifting containers or materials, drilling holes in earth or rock, concrete or paving application or street sweeping (e.g., aerial lifts, large towable air compressors, generators and light towers, concrete saws, earth compactors and rollers, backhoes, motor graders, skid-steer loaders, bulldozers, wheel loaders, trenchers, utility tractors, excavators, forklifts, sweepers, utility vehicles, trucks with various body types including pickup trucks intended for heavy work, and other related attachments and equipment).

“Master Contract” shall refer to the contract between the Bidder and a cooperative or other entity, such as Sourcewell or NASPO ValuePoint, which NYS OGS Procurement Services desires to piggyback and a Bidder may therefore bid in response to a Phase of this Solicitation.

“Master Contract Holder” shall refer to a cooperative or other entity, such as Sourcewell or NASPO ValuePoint, that issues a Master Contract.

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

“NASPO ValuePoint” shall refer to the cooperative purchasing arm of the National Association of State Procurement Officials, or NASPO. NASPO ValuePoint is a cooperative purchasing program facilitating public procurement solicitations and agreements using a lead-state model.

“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; Dr. Martin Luther King, Jr. Day; Washington’s Birthday (observed); Memorial Day; Juneteenth; Independence Day; Labor Day; Columbus Day; Veterans’ Day; Thanksgiving Day; and Christmas Day.

“NYS Vendor ID” is a unique ten-character identifier issued by the NYS Office of the State Comptroller (OSC) when the vendor is registered on the Vendor File System.

“Preferred Source Products” shall refer to those Products that have been approved in accordance with New York 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 a 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”).

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

“**Sourcewell**” shall refer to a certain State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

1.11 Conflict of Terms

Conflicts among the Solicitation documents for this Phase shall be resolved in the following order of precedence:

1. Appendix A, Standard Clauses for New York State Contracts (June 2023);
2. Appendix C, Federal Funding Agency Mandatory Terms and Conditions (October 2023);
3. The Piggyback Contract Opportunity (this document);
4. The Piggyback Contract Template;
5. Appendix B, General Specifications (April 2016);
6. Sourcewell Master Contract [or NASPO Master Contract]; and
7. All other appendices and attachments.

2. BIDDER QUALIFICATIONS

Bidder is advised that the State’s intent in having the requirements listed below is to ensure that only qualified and reliable Contractors perform the work of the resulting Contract. Bidder shall have the burden of demonstrating to the satisfaction of Procurement Services that it can perform the work required. Procurement Services retains the right to request any additional information pertaining to the Bidder’s ability, qualifications, financial capacity, financial stability, and procedures used to accomplish all work under the resulting Contract as it deems necessary to ensure safe and satisfactory work. For this Phase of the Solicitation, a Bidder shall meet the following qualifications:

Bidder shall:

1. Hold a Sourcewell Contract Number 011723 for Heavy Construction Equipment with Related Attachments and Technology, or a NASPO ValuePoint Contract for Heavy Construction and Industrial Equipment, resulting from Solicitation # OK-MA-192-23, at the time of the Bid Opening / Due Date for Bids for this Phase.
 - If a Bidder holds both a Sourcewell Master Contract and a NASPO Master Contract, OGS, at its sole discretion, will determine which of Bidder’s two Master Contracts will receive an award for a Piggyback Contract. As part of their Bid Submission, such Bidder must provide a comparison between its two Master Contracts highlighting differences in relevant areas, including scope, term, and pricing. Such Bidder may note their preference, if any, of the two Master Contracts to receive an award for a Piggyback Contract.
2. Have a minimum of \$2,000,000.00 in verifiable sales to New York State Authorized Users for Products within scope as provided in Section 1.2, *Scope, Scope of this Phase*, during any contiguous twelve (12) month period within the three (3) year period immediately preceding the Bid Opening / Due Date for Bids for this Phase of the Solicitation. Required proof of sales shall be in the form of a summary of the total sales reported, which shall include (a) the name of the New York State Authorized User that made the purchase, (b) the total amount of sales by purchaser, (c) the date of each sale, and (d) description of the

Product sold. In lieu of a summary of sales to New York State Authorized User, the Bidder may provide sales reports for an OGS Contract meeting these requirements. Required proof of sales should be submitted at the time of the Bid opening. Copies of invoices may be required for verification or clarification if deemed necessary by OGS. Failure to submit proof of sales as requested will result in rejection of Bid.

Note: Failure by a Bidder to provide any of the above information as requested by OGS or to meet any of the above qualifications in whole or in part may result in a rejection of that Bidder's bid. For this solicitation, a complete Intent to Bid should be submitted on or before the date and time indicated in the Key Events/Dates section and must be submitted prior to the Bid Opening Date. Failure to submit an Intent to Bid on or before the date and time indicated in the Key Events/Dates section or a complete Intent to Bid may result in your company's bid being disqualified from an award. Please refer to Section 1.5, Intent to Bid.

3. SPECIFICATIONS

Heavy Equipment under the Contracts shall be provided in accordance with the terms and conditions included in the Piggyback Contract Template, and the associated Master Contract. Authorized Users shall provide specifications for each purchase when requesting a quote from the Contractors and with the resultant Purchase Order.

4. BID SUBMISSION

4.1 Performance and Bid Bonds

There are no bonds for this Contract. The Commissioner of OGS has determined that no performance, payment or Bid bond, or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract is required at any time during the term of the resulting Contract.

4.2 NYS Vendor File Registration

Prior to being awarded a Contract pursuant to this Solicitation, the Bidder and any authorized resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to your company and to each of your authorized resellers (if any) for use on all future transactions with New York State. Additionally, the Vendor File enables a vendor to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York.

If Bidder is already registered in the New York State Vendor File, the Bidder must enter its Vendor ID on the first page of this Solicitation. Authorized resellers already registered should list the Vendor ID number along with the authorized reseller information. (The Vendor ID number is not the same as a SOCIAL SECURITY NUMBER or a TIN/FEIN number.)

If the Bidder is not currently registered in the Vendor File, the Bidder must request assignment of a Vendor ID from OGS. Bidder must complete the OSC Substitute W-9 Form (http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf) and submit the form to OGS in advance of Bid submission. Please send this document to the Designated Contact identified in the Solicitation. In addition, if an authorized reseller is to be used that does not have a Vendor ID, an OSC Substitute W-9 form should be completed by each authorized reseller and submitted to OGS. OGS will initiate the vendor registration process for all Bidders and authorized resellers. Once the process is initiated, registrants will receive an e-mail identifying their Vendor ID and instructions on how to enroll in the online Vendor Self-Service application.

For more information on the Vendor File please visit the following website: <https://osc.state.ny.us/vendors/>

4.3 NYS Vendor Responsibility

OGS conducts a review of prospective Contractors (“Bidders”) to provide reasonable assurances that the Bidder is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter “Questionnaire”) is used for non-construction Contracts and is designed to provide information to assess a Bidder’s responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a Bid, Bidder agrees to fully and accurately complete the Questionnaire. The Bidder acknowledges that the State’s execution of the Contract will be contingent upon the State’s determination that the Bidder is responsible, and that the State will be relying upon the Bidder’s responses to the Questionnaire, in addition to all other information the State may obtain from other sources, when making its responsibility determination.

OGS recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller’s (OSC) website at <http://www.osc.state.ny.us/vendors/index.htm> or to enroll, go directly to the VendRep System online at <https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system>.

Vendors must provide their New York State Vendor Identification Number when enrolling. For information on how to request assignment of a Vendor ID, see the *NYS Vendor File Registration* section. OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Bidders opting to complete and submit the paper questionnaire can access this form and associated definitions via the OSC website at http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

In order to assist the State in determining the responsibility of the Bidder prior to Contract award, the Bidder must complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the Bid due date. A Bidder’s Questionnaire cannot be viewed by OGS until the Bidder has certified the Questionnaire. It is recommended that all Bidders become familiar with all of the requirements of the Questionnaire in advance of the Bid opening to provide sufficient time to complete the Questionnaire.

The Bidder agrees that if it is awarded a Contract the following shall apply:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that Contractor’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS at the Contractor’s expense where the Contractor is determined by the Commissioner of OGS to be non-responsible. In such event, the Commissioner of OGS may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

4.4 NYS Tax Law Section 5-a

Tax Law § 5-a requires certain Contractors awarded State Contracts for commodities, services and technology valued at more than \$100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State is in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Contractor is required to file the completed and notarized Form ST-220-CA with the Bid to OGS certifying that the Contractor filed the ST-220-TD with DTF. Only the Form ST-220-CA is required to be filed with OGS. The ST-220-CA can be found at https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf. The ST-220-TD can be found at https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Contractor should complete and return the certification forms within five (5) business days of request (if the forms are not completed and returned with Bid submission). Failure to make either of these filings may render a Contractor non-responsive and non-responsible. Contractor shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law. The ST-220-TD only needs to be filed once with DTF, unless the information changes for the Contractor, its affiliates, or its Subcontractors.

Vendors may call DTF at 518-485-2889 with questions or visit the DTF web site at <https://www.tax.ny.gov/> for additional information.

4.5 N.Y. State Finance Law § 139-I

Pursuant to N.Y. State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>.

Pursuant to N.Y. State Finance Law § 139-I, any bid by a corporate Bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such Bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the Bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, OGS may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on Attachment 6 – *NYS Required Certifications*, which Bidder must submit with its bid.

4.6 Format of Bid Submission

- A. The complete Bid package must be received by OGS Procurement Services by the date and time of the Bid opening. Late Bids shall be handled in accordance with Appendix B *Late Bids*. Any Bid pricing or portions thereof submitted on USB flash drive that are incomplete or that cannot be opened/accessed may be rejected. With respect to any Bid documents in Excel format, only those cells provided for entering Bid pricing and information are to be accessed by the Bidder. Situations susceptible to Disqualification may include:
 - 1. E-mail or facsimile Bid submissions are not acceptable, and
 - 2. Absent Price Pages (Attachment 1 – *Pricing*) are not acceptable.
- B. It is recommended that the Bidder open, review and save/download all electronic files to the Bidder’s hard drive and/or to a secure back-up location. Only completed files (in the specified format) should be saved to a USB flash drive for submittal.
- C. Any indicators or messages that have been built into the attachments are informational only and provided solely for the purpose of assisting Bidders in completing the attachments. The presence or absence of notes or indicators is not a determination by the State as to the sufficiency of the attachments with respect to the Solicitation requirements. Bidders remain responsible for reviewing the attachments to ensure compliance with the Solicitation requirements.
- D. Bidders are responsible for the accuracy of their Bids. All Bidders are directed to take extreme care in developing their Bids. Bidders are cautioned to carefully review their Bids prior to Bid submission. A Bid that fails to conform to the requirements of the Solicitation may be considered non-responsive and may be rejected.
- E. If a Bidder, along with its affiliated entities, submitted one joint bid in response to a Master Contract Holder and the Master Contract Holder issued one Master Contract but made a separate posting on its website per affiliated entity showing the Master Contract with a distinct price page for each of the affiliated entity product lines, then the Bidder should submit one bid in response to this Phase of the Solicitation.
- F. Any discounts, pricing or Products offered on the OGS Piggyback Contract or included on an Authorized User invoice must be set forth within the Master Contract Price list or in another Master Contract document. If not included in your Master Contract Price list submit a document that details where these charges are set forth in the Master Contract.

4.7 Content

- A. A complete Bid consists of submission of the following documents. All documents must be completed in accordance with the instructions for the individual document, which may include an original signature or an original notarized signature. At this time, OGS cannot accept an eSignature that has been generated by software. See also Attachment 9 – *Bidder Submission Checklist*.

	<u>Bid Document</u>	<u>Required File Format (Submit on USB)</u>	<u>Original also Required (Submit paper original)</u>
1	Page 1 of the Solicitation	<u>PDF</u>	<u>X</u>
2	The most recently approved Sourcewell Master Contract Price list and/or NASPO Master Contract Price list. (The final, approved Contract pricelist will become Attachment 1 – <i>Pricing</i> in the OGS Piggyback Contract). Bidders holding both Master Contracts shall submit their recently approved Master Contract pricelist for both Master Contracts.	<u>Excel</u>	

	<u>Bid Document</u>	<u>Required File Format (Submit on USB)</u>	<u>Original also Required (Submit paper original)</u>
3	Any discounts, pricing or Products offered on the OGS Piggyback Contract or included on an Authorized User invoice must be set forth within the Master Contract Price list or in another Master Contract document. If not included in your Master Contract Price list submit a document that details where these charges are set forth in the Master Contract.	Excel or PDF	
4	Proof of compliance with Contract Attachment 2 – <i>Insurance Requirements</i> . The insurance requirements will become Attachment 2 – <i>Insurance Requirements</i> in the OGS Piggyback Contract.	PDF	
5	Attachment 3 – <i>Report of Contract Usage</i> . Attachment 3 – <i>Report of Contract Usage</i> will become Attachment 3 – <i>Report of Contract Usage</i> in the OGS Piggyback Contract.	Not required to be submitted with the bid	
6	Attachment 4 – <i>Contractor and Reseller/Distributor Information</i> . Attachment 4 – <i>Contractor and Reseller/Distributor Information</i> will become Attachment 4 – <i>Contractor and Reseller/Distributor Information</i> in the OGS Piggyback Contract. Bidders holding both Master Contracts shall submit Attachment 4 – <i>Contractor and Reseller/Distributor Information</i> for each Master Contract.	Excel	
7	Attachment 5 – <i>Bidder Certification and Affirmation, with signature</i>	PDF	
8	Attachment 6 – <i>NYS Required Certifications, with signature</i>	PDF	
9	Attachment 7 – <i>Encouraging Use of NYS Businesses in Contract Performance</i>	PDF	
10	Attachment 8 – <i>Bidder Information Questionnaire</i> . Bidders holding both Master Contracts shall submit Attachment 8 – <i>Bidder Information Questionnaire</i> for each Master Contract.	Excel	
11	Attachment 9 – <i>Bidder Submission Checklist</i>	Excel	
12	Attachment 10 – <i>Certification Under Executive Order No. 16</i>	PDF	
13	Attachment 11 – <i>Bidder Questions Form</i>	Not required to be submitted with the bid	
14	Attachment 12 – <i>Intent to Bid</i>	PDF	
15	Appendix C – <i>Federal Funding Agency Mandatory Terms and Conditions</i> , with Section 10 completed (page 6)	PDF	
16	EEO 100 – <i>Equal Employment Opportunity Staffing Plan</i> , with signature (see https://ogs.ny.gov/mwbe/forms under “Commodity & Service Contracts”)	PDF	
17	Vendor Responsibility Questionnaire (copy of certification that a Questionnaire has been completed online, and certified no more than six (6) months prior to the bid opening date; see https://www.osc.state.ny.us/state-vendors/vendrep/file-your-vendor-responsibility-questionnaire)	PDF	
18	ST-220-CA, <i>Contractor Certification to Covered Agency</i> , with signature and notary (see https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)	PDF	
19	ST-220-TD, <i>Contractor Certification</i> , with signature and notary (see https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)	Must be submitted directly to the NYS Tax Department	
20	Proof of sales verifying Bidder has a minimum of \$2,000,000.00 in verifiable sales to NYS Authorized Users for Products within scope as provided in Section 1.2, <i>Scope</i> , during any contiguous twelve (12) month period within the three year period immediately	Excel	

	<u>Bid Document</u>	<u>Required File Format (Submit on USB)</u>	<u>Original also Required (Submit paper original)</u>
	preceding the Bid Opening /Due Date for Bids for this Phase of the Solicitation pursuant to Section 2, <i>Bidder Qualifications</i> .		
21	If a Bidder holds both a Sourcwell Master Contract and a NASPO Master Contract, Bidder shall provide a comparison between its two Master Contracts highlighting differences in relevant areas, including scope, term, and pricing (See Section 2, Bidder Qualifications). Such Bidder may note their preference, if any, of the two Master Contracts to receive an award for a Piggyback Contract.	PDF	
22	All Updates pertaining to this Phase of the Solicitation, with signatures (if applicable).	PDF	

B. Documents should be submitted as an electronic copy and in the format specified in the list above for each document (e.g., PDF, Excel), following the instructions provided in this section. Electronic copies of documents must be submitted on two (2) USB flash drives, with each USB flash drive containing a complete set of the submitted documents. When submitting electronic documents, include a printed copy of page 1 of the Solicitation with the Bid (see 4.8, *Bid Envelopes and Packages*, below).

Electronic copies of documents provided in PDF format should be saved as an Adobe Acrobat PDF, AND THEN converted to allow for Optical Character Recognition (OCR) (see <https://www.adobe.com/acrobat/how-to/ocr-software-convert-pdf-to-text.html>).

- C. OGS shall consider documents submitted on multiple USB flash drives to be equal, provided that the date/time modified is the same for documents that have the same file name. In the case of discrepancies between file names and date/time modified, the file with the most recent date/time modified shall take precedence.
- D. Documents that are not indicated as “Original Also Required” in the above table should not be submitted in paper format, and may not be reviewed by OGS if they are received. In the case of discrepancies between paper versions that are received (if applicable) and USB flash drive submissions of the documents submitted by the Bidder, the electronic USB flash drive copy shall take precedence over the paper version.
- E. Bidder is responsible for retaining the original documents with original signatures that have been scanned and submitted electronically until a determination of award is made. If an award is made to Bidder, the documents with original signatures shall be retained by the Bidder for a period of six (6) years after the term of the contract has ended. Bidder shall submit such documents with original signatures to OGS upon request.

4.8 Bid Envelopes and Packages

All Bids should have a label on the outside of the envelope or package itemizing the following information:

1. BID ENCLOSED (preferably bold, large print, all capital letters)
2. Solicitation number PGB #23345 – Phase 2 – Heavy Construction
3. Bid Opening Date and Time
4. The number of boxes or packages (e.g., 1 of 2; 2 of 2)

All Bids should also include a PRINTED copy of page 1 of the Solicitation, completed with the Bidder’s information. This printed copy of page 1 should be placed in the envelope with the USB flash drives.

Failure to complete all information on the Bid envelope and/or package may necessitate the opening of the Bid prior to the scheduled Bid opening.

4.9 Bid Delivery

Bids shall be delivered to the following address on or before 1:30 p.m. ET, on or before the Bid Opening/ Due Date for Bids for this Phase as stated in Section 1.4, *Key Events/Dates for this Phase*:

State of New York Executive Department
Office of General Services
Procurement Services
Corning Tower - 38th Floor Reception Desk
Empire State Plaza
Albany, NY 12242
Attn: Bid Enclosed – Solicitation 23345 – Phase 2

Bidder assumes all risks for timely, properly submitted deliveries. The time of Bid receipt is determined by OGS according to the timeclock at the above-noted location. A Bidder is strongly encouraged to arrange for delivery of Bids to OGS prior to the date of the Bid opening. Late Bids shall be rejected, except as provided in Appendix B, *Late Bids*. All Bids and accompanying documentation shall become the property of the State of New York and shall not be returned. Refer to “Important Building Access Procedures” clause.

4.10 Important Building Access Procedures

To access the Corning Tower, all visitors must check in by presenting photo identification at the Corning Tower Information Desk. Delays may occur due to a high volume of visitors. Visitors conducting Procurement Services business are encouraged to pre-register for building access by contacting the Procurement Services Receptionist at (518) 474-6262 or Customer Services (518) 474-6717 at least 24 hours prior to the visit. If no answer, leave a detailed phone message including the following information: reason for visit and/or delivering a bid, solicitation number, date and estimated time of delivery or visit, first and last name of visitor, and visitor’s cell phone number. Visitor may email customer.services@ogs.ny.gov providing the same information. Visitors who are not pre-registered will be directed to a designated phone at the Corning Tower Information Desk, where they are to call the Procurement Services Receptionist (518) 474-6262 or Customer Services (518) 474-6717 for access. The visitor will be registered at that time. Bids are not allowed to be left at the Corning Tower Information Desk. Please note that delays may occur. Building access procedures may change or be modified at any time.

4.11 NYS Required Certifications

A Bidder is required to submit the signed New York State Required Certifications (Attachment 6 – *NYS Required Certifications*) with its Bid.

4.12 Bid Deviations

Bids must conform to the terms set forth in the Solicitation. As set forth in Bidder Questions, if Bidder intends to submit a Bid that deviates from the requirements of this Phase of the Solicitation in any way, the proposed deviations should be submitted during the Questions period for this Phase so that they may be given due consideration prior to the submission of Bids for this Phase. Material deviations (including additional, inconsistent, conflicting, or alternative terms) submitted with the Bid may render the Bid non-responsive and may result in rejection of the Bid.

Bidder is advised that OGS will not entertain any exceptions to Appendix A - *Standard Clauses for New York State Contracts*. OGS will also not entertain exceptions to this Phase of the Solicitation or Appendix B - *General Specifications* that are of a material and substantive nature.

Extraneous terms submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

4.13 Bid Opening Results

OGS Procurement Services posts Bid information on the OGS Procurement Services website. The Bid Opening Results webpage makes available the list of bidders that responded to the Solicitation. Such information is anticipated to be available online within two business days after the Bid opening.

The Bid Opening Results Page is available at: <https://ogs.ny.gov/procurement/bid-opening-results-0>.

4.14 Bid Liability

The State of New York will not be held liable for any cost incurred by the Contractor for work performed in the production of a Bid or for any work performed prior to the formal execution of a Contract.

4.15 NYS Reserved Rights

New York State reserves the right, in its sole discretion, to:

- A. Reject any or all Bids received in response to this Phase of the Solicitation;
- B. Withdraw this Phase of the Solicitation at any time at the sole discretion of the State;
- C. Make an award under this Phase of the Solicitation in whole or in part;
- D. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of this Phase of the Solicitation;
- E. Seek clarifications and revisions of the Bid;
- F. Amend this Phase of the Solicitation prior to the Bid opening to correct errors or oversights, or to supply additional information as it becomes available;
- G. Direct Bidders, prior to the Bid opening, to submit Bid modifications addressing subsequent amendments to this Phase of the Solicitation;
- H. Change any of the schedule dates with notification through the NYS Contract Reporter;
- I. Eliminate any mandatory, non-material requirements that cannot be complied with by all of the prospective Bidders for this Phase of the Solicitation;
- J. Waive any requirements that are not material;
- K. Utilize any and all ideas submitted in the Bids received;
- L. Adopt all or any part of a Bidder's Bid in selecting the optimum configuration;
- M. Negotiate with a Bidder within the requirements of this Phase of the Solicitation to serve the best interests of the State. This includes requesting clarifications of any or all Bids;
- N. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's Bid and/or to determine a Bidder's compliance with the requirements of this Phase of the Solicitation;
- O. Select and award the Contract to other than the selected Bidder in the event of unsuccessful negotiations or in other specified circumstances as detailed in this Phase of the Solicitation;
- P. Accept and consider for Contract Award Bids with non-material Bid Deviations or non-material Bid defects such as errors, technicalities, irregularities, or omissions;
- Q. Use any information which OGS obtains or receives from any source and determines relevant, in OGS's sole discretion, for the purposes of bid evaluation and Contractor selection;
- R. Consider a proper alternative where an evidently incorrect reference/parameter/component/product/model/code number is stated by the State or the Bidder;
- S. Reject an obviously unbalanced Bid as determined by the State;
- T. Conduct Contract negotiations with the next responsible Bidder, should the Agency be unsuccessful in negotiating with the selected Bidder;
- U. Make no award for any Product, region, or lot, as applicable, for reasons including, but not limited to, unbalanced, unrealistic or excessive Bidder pricing, a change in Authorized User requirements and/or Products, or an error in this Phase of the Solicitation (e.g., use of incorrect reference, pack size,

description, etc.). In such case, evaluation and ranking of Bids may be made on the remaining Products, regions, or lots;

- V. Offer a Bidder the opportunity to provide supplemental information or clarify its Bid, including the opportunity to explain or justify the balance, realism, and/or reasonableness of its pricing;
- W. Award Contracts on a rolling or staggered start basis, either in whole or in part. Contracts awarded in this method shall be coterminous with the first Contract awarded as a result of this Phase of the Solicitation.

4.16 Incorporation

Portions of the successful Bidder's Bid and of this Phase of the Solicitation shall be incorporated into a final Contract, in the form of the Piggyback Contract Template made a part of this Phase of the Solicitation, which shall be customized with Bidder company information, and executed by Bidder and OGS.

5. METHOD OF AWARD

5.1 Method of Award

For this Phase of the Solicitation, award shall be made to the responsive and responsible Bidders who meet the minimum requirements listed in Section 2, *Bidder Qualifications*, above. Because of the nature of the Products involved and recognizing that no one Bidder will be able to supply all of the Products required by Authorized Users, award shall be made to more than one Bidder.

Bids for Contracts received under this Phase of the Solicitation will be reviewed beginning on the Bid Opening/ Due Date for Bids for this Phase date indicated in Section 1.4, *Key Events/Dates for this Phase*. OGS intends to award contracts simultaneously to all responsive and responsible Bidders on the "Contract Approval Date" indicated in Section 1.4, *Key Events/Dates for this Phase*. A Bidder responding to this Solicitation is advised that each Bid will undergo an initial administrative review for completeness. In order for a Bid to be evaluated, it must include all required documents for a complete Bid (see Section 4.7, *Content*). Upon completion of the administrative review, OGS will request any missing documentation from the Bidder, and will review all documents for completeness upon receipt of the missing documents.

5.2 Periodic Recruitment

This Solicitation allows for periodic recruitment of additional Contractors for this Phase, or of additional Contractors to provide other types of Heavy Equipment under Future Phases. Recruitment periods are optional at the discretion of the State. Periodic recruitments for Future Phases shall be for specific types of Heavy Equipment and will include a minimum qualification that Bidders hold a Master Contract in a specified contract suite with a cooperative contracting organization (e.g., Sourcewell, NASPO, or GSA), to be determined by OGS. OGS reserves the right to establish different minimum Bidder qualifications and Contract terms for each Future Phase of the Solicitation. OGS also reserves the right to include previously solicited types of Heavy Equipment and Master Contracts in a periodic recruitment.

Additional recruitment periods will be advertised in the NYS Contract Reporter. Bidder must register with the New York State Contract Reporter at <https://www.nyscr.ny.gov> in order to receive notifications regarding any periodic recruitments under this Solicitation. Bids for a periodic recruitment of additional Contractors under a previously bid Phase shall be evaluated under substantially the same terms and conditions as the original Bids under that Phase. Bidders shall also be required to submit necessary documentation for any additional applicable statutory requirements in effect at the time of any periodic recruitment.

The term of the resultant Piggyback Contracts pursuant to this Phase of the Solicitation shall begin on the date of approval by OSC, pursuant to Section 1.8, *NYS Comptroller Approval*, and shall end upon the expiration or termination of the applicable Master Contract; subject to OGS' right to terminate the Piggyback Contracts.

Additional Contractors added to Award 23345 *Heavy Equipment* via periodic recruitment shall be added as supplemental awardees and, like Contracts already awarded under Award 23345 *Heavy Equipment*, shall have Contracts with Contract terms that shall begin on the date of approval by OSC, pursuant to Section 1.8, *NYS Comptroller Approval*, and shall end upon the expiration or termination of the applicable Master Contract, subject to OGS' right to terminate the Piggyback Contracts (see e.g. Piggyback Contract Template Section 2.3, *Contract Term and Extensions*).

Once awarded a Contract, a Contractor may resubmit a Bid for future consideration related to the same type of Heavy Equipment previously solicited only if the Contractor holds a Master Contract specified in the periodic recruitment solicitation. In addition, if a Bid is deemed non-responsive during any Phase of the Solicitation or any recruitment period thereunder, a Bidder cannot reapply for a future Contract until the next recruitment period.

5.3 Procurement Instructions for Authorized Users

The resultant Contracts will be issued under a multiple award structure. Authorized Users shall procure Products that best meet their form, function, and utility requirements. Authorized Users shall issue a request for quote to all Contractors that offer the type of Heavy Equipment that meets their form, function, and utility. There is no required format for a Mini-Bid for this Contract.

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.

5.4 Notification of Award

Tentative Contract award(s) shall consist of written notice to that effect by OGS to a selected Bidder, who shall execute a Contract upon a determination by OGS that the Bidder is responsive and responsible.

Non-awardees will also be notified that their Bid was not selected for award.

5.5 Debriefings

Debriefings shall be provided to the Bidder in accordance with Piggyback Contract Template, Appendix B, Section 20, *Debriefings*.