NEW YORK STATE OF OPPORTUNITY.

2015 Purchasing Forum & Trade Show

AVOIDING PITFALLS IN IFB PROCUREMENTS

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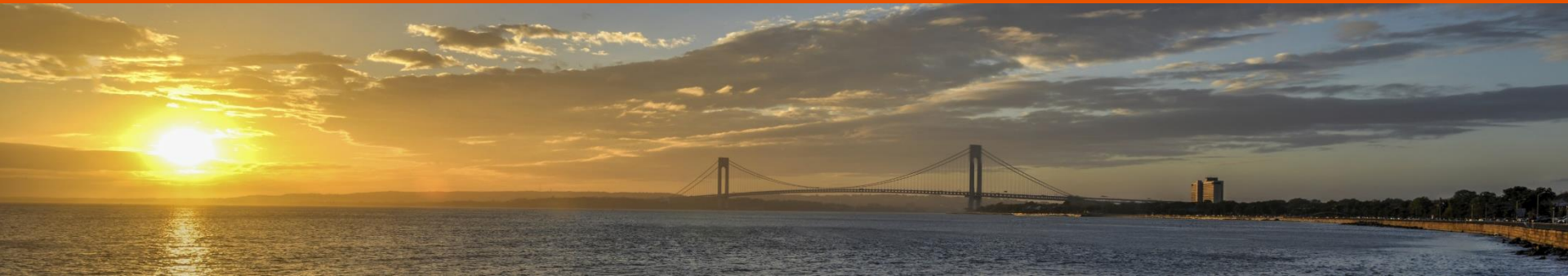
Opportunities on the Horizon

May 20 & 21, 2015



AGENDA

- Introduction
- Common IFB Pitfalls
- Wrap-up/Questions

Avoid Solicitation Document Pitfalls

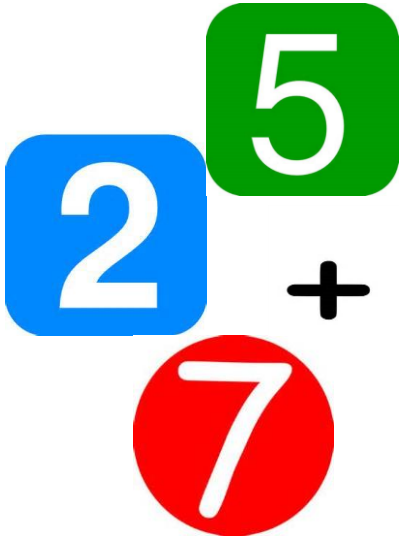
Document must say what you mean and mean what you say

- What
- When
- Where
- How

Method of Award

- Must be clearly stated
- Method of Award examples – must choose one:
  - Award by item
  - Award by lot
  - Award by region
  - Award by grand total

ADDITIONS DURING THE CONTRACT



Anticipated additions and pricing options must be evaluated in the method of award.

"Award will be made to the bidder meeting all of the mandatory bid requirements and submitting the lowest grand total price."

	Vendor A		Vendor B	
100 Samples	$98.00	$9,800.00	$100.00	$10,000.00
10 hrs. Review	$100.00	$1,000.00	$50.00	$500.00
10 hrs. Testimony	$200.00	$2,000.00	$100.00	$1,000.00
Total		$12,800.00		$11,500.00

Price Adjustment Clauses

Price adjustments will affect bids, therefore must be included in the solicitation document in order to be included in the contract.

Price Adjustments

- Consumer Price Index (CPI) http://stats.bls.gov/cpi
- Producer Price Index (PPI) http://stats.bls.gov/ppi
- May use other items such as prevailing wage, fuel indices, etc.
  - http://labor.ny/gov
  - http://www.eia.gov

Adjustment Clause Example

Vendor, or the State, may request a price increase or decrease based on changes in the CPI. CPI to be used is CPI - All Urban Consumers – Northeast All Items for the 12 months ended 90 days prior to the anniversary date of the contract. Requests for changes must be initiated 60 days prior to the anniversary date of the contract. Only one price adjustment per year will be granted on the anniversary date of the contract.

Other Considerations

- **Renewal clause example:**

  "This contract may, upon mutual agreement of both parties, be renewed for two (2) one year periods. Total contract term shall not exceed five years"

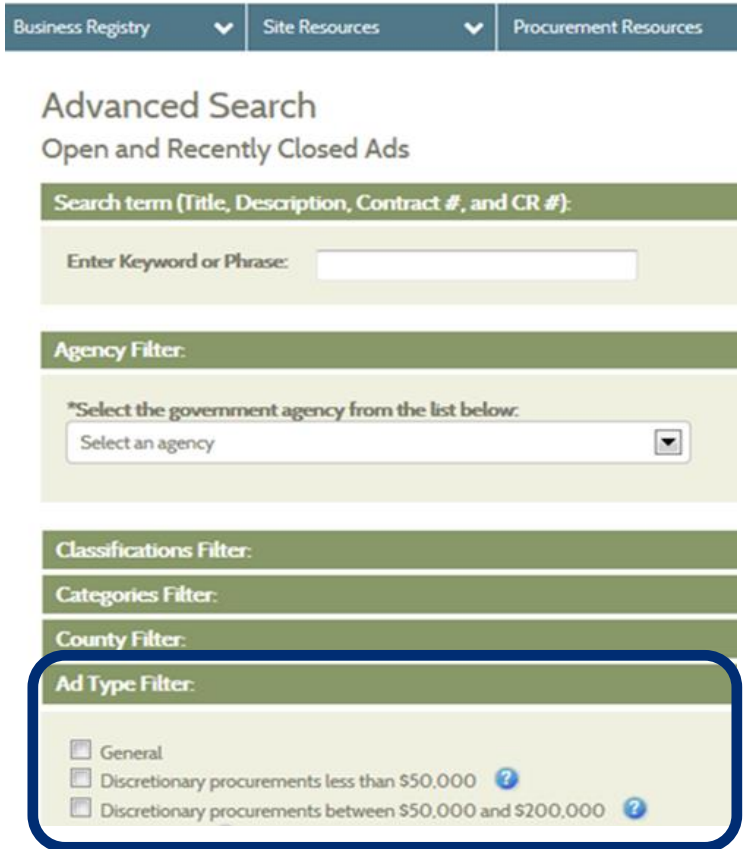
- **Check for document consistency**

Avoid Advertisement Pitfalls

Advertise

- Include an “or equal” in your advertisement to avoid restricting competition
- When creating the Contract Reporter Ad be sure to select the most accurate “opportunity type” to reflect the procurement.

Contract Reporter



Other Considerations

Include:

- **Contract term & renewals**
- **Mandatory Site Visits**

Invite Potential Bidders

SFL §163 (2)(c) – The State must make reasonable efforts to ensure the offerers are apprised of procurement opportunities.

- **This section of the law is separate and in addition to the section requiring advertising in the Contract reporter.**

Avoid Assignment Pitfalls

Assignments

- Who
- What
- When
- Why
- How much

Assignments

What is the reason, for the need, of this assignment?

- Change in corporate structure
- Merger
- Take-over
- Sold a division of the company
- Sold entire company

How are these similar?

Assignments

DOUBLEMINT Gum

They are both….. Double the fun

Assignor

- The current firm on contract

Assignee

- New firm
- Assignment Agreement
- Terms & Conditions per original bid
- Appendix A
- VR; Tax; Lobbying documents
- Cover letter with reasons & back up documentation
- Unpaid Invoice(s) considerations

Assignment Agreement

- Reason for the assignment
- Effective date
  - the date the assignee takes over responsibility of the contract
- Term date
  - end date of the assignor's contract is the end date of the assignee's contract

2 or Fewer Bidders

2 or Fewer Bidders

How to move forward if the Bid Tab is shorter than expected.

- What should be provided
- How to justify cost

2 or Fewer Bidders

Although fewer than 2 bidders is not ideal, it does happen…

- **Provide**
  - **an explanation in the cover letter**
  - **“no-bid” replies**
  - **canvass of those who did not bid**
- **Explain steps taken to develop a robust bidders list**

Price Justification

Price Reasonableness Comparison Tools:

- Purchase made by other state agencies (Check SFS & Open Book)
- Purchase made by other states (look at other states' websites)
- Purchase made by similar facilities (within your agency)
- GSA pricing (http://www.gsaelibrary.gsa.gov)

Price Justification

Price Reasonableness Comparison Tools:

- Discounts from published price lists
- OGS pricing
- Historical cost
- Manufacturing costs plus profit
- Cost of similar projects or items
- Description of due diligence process

Avoid Mathematical Pitfalls

Vending Contract Revenue Calculation

Machine Type:	SNACKS		COLD/HOT FOOD		BEVERAGES	
	$120.00	Hard Candy	$740.00	Hot Dogs	$1,250.00	Soda
	$550.00	Candy Bar	$165.00	Fruit cup	$27.50	Water
Estimated Monthly Sales,	$357.50	Cookies	$262.50	Yogurt	$1,040.00	Juice
Based on Historical Usage	$247.50	Crackers	$40.00	Bagel		
	$280.00	Chips	$225.00	RB/Turkey Sand		
	$320.00	Cupcakes	$375.00	Ham/Cheese Sand		
Monthly Sales Per Machine	$1,875.00		$1,807.50		$2,317.50	
# of Machines	2		1		2	
Total Extended Sales,	$135,000.00		$65,070.00		$166,860.00	
3 Year Term						
Commission Rate: 15 %	$20,250.00		$9,760.50		$25,029.00	
Monthly Space Rental Fee,	$20.00					
Per Machine						
Total Extended Rental Fee,	$3,600.00					
All Machines						
Contract Revenue Total	$58,639.50					

RED TEXT = BID AMOUNTS PROVIDED BY VENDOR

Who is this quote attributed to?

"As I hurtled through space, one thought kept crossing my mind – every part of this rocket was supplied by the lowest bidder."

Final Answer:

Astronaut John Glenn

Questions ???

Thank You