



Department of Health

Invitation for Bids

IFB # 17850

Purchase and Delivery of Scientific, Specialty, Liquid and Industrial Gases

Issued: October 17, 2018

DESIGNATED CONTACT:

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies the following designated contact to whom all communications attempting to influence the Department of Health's conduct or decision regarding this procurement must be made.

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PERMISSIBLE SUBJECT MATTER CONTACT:

Pursuant to State Finance Law § 139-j(3)(a), the Department of Health identifies the following allowable contact for communications related to the submission of written bids, written questions, pre-bid questions, and debriefings.

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MANDATORY SITE VISIT RESERVATION CONTACT:

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1.0 CALENDAR OF EVENTS

| IFB # 17850 ENTITLED “PURCHASE AND DELIVERY OF SCIENTIFIC, SPECIALTY, LIQUID AND INDUSTRIAL GASES” | |
|--|--|
| <u>EVENT</u> | <u>DATE</u> |
| Issuance of Invitation for Bids | October 17, 2018 |
| Registration for Mandatory Site Visit Required by | October 30, 2018 |
| Mandatory Site Visit (Choice of 2 dates) | November 1, 2018 or November 2, 2018 |
| Deadline for Submission of Written Questions | Questions Due By November 16, 2018 3:00 p.m. ET |
| Responses to Written Questions and Responses to Questions which occurred during Site Visit will be Posted by DOH | On or About November 30, 2018 |
| Deadline for Submission of Bids | Proposals Due on Or Before December 14, 2018 3:00 p.m. ET |
| <u>Anticipated</u> Contract Start Date | March 1, 2019 |

2.0 OVERVIEW

Through this Invitation for Bids (“IFB”), the New York State (“State”) Department of Health (“DOH”) Wadsworth Center (WC) is seeking competitive bids from qualified organization for comprehensive next-day gas delivery service to include a full line of cylinder gases required for use in a laboratory setting as further detailed in Section 4.0 (Detailed Specifications). It is the Department’s intent to award one (1) contract from this procurement.

2.1 Introductory Background

The WC purchases approximately 810 liquid gas cylinders, 3,208 cubic feet of liquid nitrogen in bulk, and 840 industrial, scientific and specialty gas cylinders annually. There are approximately 2,400 orders placed annually.

The volume/usage totals provided are based on the previous four (4) years purchasing and are meant to be representative of volumes/types purchased. The totals do not represent a commitment or guarantee to utilize a specific quantity of cylinders or the purchase of any specific quantity of industrial gas.

Cylinder Deposits and Rental Fees – The WC will not pay cylinder deposit or rental fees of any kind under this contract.

2.2 Important Information

The bidder is required to review, and is requested to have legal counsel review, [Attachment 8](#), the DOH Agreement as the Bidder must be willing to enter into an Agreement substantially in accordance with the terms of Attachment 8 should the bidder be selected for contract award. Please note that this IFB and the awarded vendor's bid will become part of the contract as Appendix B and C, respectively.

It should be noted that Appendix A in [Attachment 8](#) "Standard Clauses for New York State Contracts", contains important information related to the contract to be entered into as a result of this IFB and will be incorporated, without change or amendment, into the contract entered into between DOH and the successful Bidder. By submitting a response to the IFB, the Bidder agrees to comply with all the provisions of Appendix A.

Note, [Attachment 7](#), the Bidder's Certifications/Acknowledgements, should be submitted and includes a statement that the bidder accepts, without any added conditions, qualifications or exceptions, the contract terms and conditions contained in this IFB including any exhibits and attachments. It also includes a statement that the bidder acknowledges that, should any alternative bids or extraneous terms be submitted with the bid, such alternate products or services or extraneous terms will not be evaluated by the DOH.

Any qualifications or exceptions proposed by a bidder to this IFB should be submitted in writing using the process set forth in Section 5.2 (Questions) prior to the deadline for submission of written questions indicated in Section 1. (Calendar of Events). Any amendments DOH makes to the IFB as a result of the questions and answers will be publicized on the DOH web site.

2.3 Term of the Agreement

This contract term is expected to be for a period of 5 years commencing on the date shown on the Calendar of Events in Section 1.0, subject to the availability of sufficient funding, successful contractor performance, and approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).

3.0 BIDDERS MINIMUM QUALIFICATIONS TO PROPOSE

DOH will only accept bid proposals from bidders who meet all minimum requirements. Failure to meet these Minimum Qualifications will result in a bid proposal being found non-responsive and eliminated from consideration.

3.1 Mandatory Site Visit

Bidders must attend the Mandatory Site Visit and must attend and sign in at each location:

Mandatory Site Visit Location

Biggs Laboratory – Empire State Plaza, Albany, NY
500,000 gross sq. ft.*
730 rooms*

Mandatory Site Visit Location

David Axelrod Institute (DAI) – 120 New Scotland Avenue, Albany, NY
220,000 gross sq. ft.*
342 rooms*

The following locations will **not** be part of the site visit:

Griffin Laboratory – 5668 State Farm Road, Slingerlands, NY
85,000 gross sq. ft.*
95 rooms*

Center for Medical Science (CMS) – 150 New Scotland Avenue, Albany, NY
79,300 sq. ft.*
115 rooms*

*Square footage and number of rooms is approximated.

- Date and Time of the Mandatory Site Visit is provided in Section 1.0 Calendar of Events;
- Registration for Site Visit is required;
 - Registration deadline date is listed in the Section 1.0, Calendar of Events;
 - Mandatory Site Visit Dates are provided in the Section 1.0 Calendar of Events. Bidder must choose one (1) of the available dates listed to attend the Site Visit.
 - To register for the Mandatory Site Visit, contact the person provided on the Designated Contacts page (Mandatory Site Visit Reservation Contact) between the hours of 8:00AM and 3:00PM Monday through Friday.

Attendees will be required to provide photo identification the day of the Site Visit;

- Representative areas will be visited in the Capital District area (see locations listed above); an itinerary for the Site Visit will be provided at the time of registration.
- Questions posed during the site visit will be announced and answered for all attending to hear. Further, questions raised and verbal responses provided during the Mandatory Site Visit will be incorporated into the Department's official response to questions (both written and Mandatory Site Visit questions) to be posted to the Department's website for this IFB, on or about the date specified in the Section 1.0 Calendar of Events;
 - Any questions that cannot be answered during the Mandatory Site Visit will be answered and incorporated into the Department's official response to questions and posted to the IFB website on or about the date specified in the Section 1.0 Calendar of Events;
- Vendors should clearly understand that the only official answers or positions of the Department are those stated in writing and posted on the Department's website for this IFB. Verbal responses provided during the Mandatory Site Visit (or at any other time) do not represent the official answer or position of the Department and the Department shall not be bound in any way by any such verbal answer.

3.2 Minimum Qualifications

NYSDOH will accept bid proposals from organizations with the following type and level of experience as a prime contractor:

- A minimum of three (3) years-experience with comprehensive next-day gas delivery service including a full line of cylinder gases required for use in a laboratory setting as specified within the IFB.
- The bidder must be currently providing similar services as defined in Section 4.1. Definitions, for three (3) or more customers.

For the purposes of this IFB, a prime contractor is defined as one who has the contract with the owner of a project or job and has full responsibility for its completion.

Failure to meet the Bidder's Minimum Qualifications to Propose will result in a bid being found non-responsive and eliminated from consideration.

4.0 DETAILED SPECIFICATIONS

This Section describes the gas services that are required to be provided by the selected bidder. The selected bidder must be able to provide all of these services throughout the contract term.

PLEASE NOTE: Bidders will be required to provide responses that address all of the requirements of this IFB as part of its Bid.

The terms "bidders", "vendors" and "proposers" are also used interchangeably. For purposes of this IFB, the use of the terms "shall", "must" and "will" are used interchangeably when describing the Contractor's/Bidder's duties.

4.1 Definition

- Similar Services - experience delivering the types of gases included in this IFB / contract directly into laboratories. Dock delivery or delivery into a staging room or area does not qualify.

4.2 Service

4.2.1 Vendor Staff

- Customer service personnel must be able to respond to inquiries that are inherent in the sale and use of industrial, liquid, scientific, and specialty gases.
- All delivery personnel must have experience delivering the types of gases included in this contract directly into laboratories. Dock delivery or delivery into a staging room or area does not qualify.
- Delivery personnel must be properly trained and have working experience in filling cylinders with liquefied gases.
- When in a WC facility or on WC grounds, the vendor's delivery staff must at all time

- wear a uniform which displays the company name.
- The vendor's delivery personnel will be provided WC ID badges at no charge to the vendor. The badges must be displayed on their person at all time when on WC grounds or in a WC facility and must not be displayed at any other time. The vendor is responsible for returning badges of personnel whose employment is terminated for any reason within 24 hours of termination to the Contract Manager.
- The WC reserves the right to reject any employee of the contractor at any time and require their immediate replacement with staff acceptable to the WC Contract Manager. The contractor will provide the qualifications and experience of the driver assigned to the contract for the WC Contract Manager's review prior to the start of work.

4.2.2 Delivery, Return and Transition

- Vendor must have and use a barcode or like tracking system for all cylinders delivered to and returned from the WC.
- Hours of service will be 8:00AM to 3:00PM, Monday through Friday, excluding New York State holidays. Emergency orders will be an exception, but in general the contractor shall not enter any WC facility outside of these hours.
- All gas orders the vendor receives by 4:30PM must be delivered the next business day.
- Gas cylinders deliveries will be made directly to the room specified and placed exactly as indicated by the end-user.
- Gas cylinders must be rotated forward and delivered cylinders must be placed behind cylinders already on hand. The vendor's delivery personnel shall not move cylinders attached to equipment.
- End users must sign for the delivery of each cylinder. Except in emergency cases, signatures should not be obtained from WC Receiving Unit staff. Two (2) copies of signed delivery slips will be required for each delivery. One will be provided to the enduser and the other to the designated person in the Receiving Unit at each facility.
- Empty or unwanted cylinders will be picked up by the contractor when full cylinders are delivered or upon request by the WC Contract Manager or designee.
- The transition period during which the previous vendor's cylinders will be in the WC facilities will be significant. The vendor awarded this contract will be responsible for moving the previous vendor's empty cylinders from the laboratories/work areas and delivering them to and safely securing them in a designated staging area at each facility. This will be done each time the delivery person sees a cylinder marked as empty and whenever a request is received from the WC Contract Manager or designee.
- Emergency delivery of any of the gases in the contract must be provided within three (3) hours of emergency notification. Historically, during the last four (4) year period, no emergency deliveries have been requested or provided.
- All deliveries will be F.O.B. destination.

4.2.3 Refilling of Cylinders

- On site filling of customer owned liquefied gas cylinders is a requirement in this contract. Delivery personnel must be properly trained and have working experience in filling cylinders with liquefied gases.

All cylinders at the David Axelrod Institute facility containing liquid nitrogen gas are customer owned. At this time, all cylinders are LS-160 cylinders. This facility has a bulk liquid nitrogen tank.

- When a liquid cylinder is ordered, the vendor will pick up the cylinder from the room on the order, bring it to the filling room, fill the cylinder and return it.
- Cylinders will be transported to and from the filling room at no charge to the WC.
- This will be next-day service.
- The WC reserves the right to add different size cylinders to this service.

4.3 Inventory

The vendor must provide the WC access to an electronic perpetual inventory.

- This inventory must include the date delivered, cylinder ID, building and room delivered to, gas description, and PO# purchased on.
- This inventory must be updated on a daily basis as cylinders are delivered and returned.
- This inventory must be downloadable into Microsoft Excel.

4.4 Compensation Structure

- The WC will not pay cylinder deposit, cylinder leasing, demurrage or cylinder rental fee of any kind.
- The WC will not be responsible for any costs that are not specifically outlined in this contract.
- No additional charges, including fuel surcharges and hazardous material (HAZMAT) handling charges, cylinder recertification charges, etc. will be allowed during the entire contract period.
- The vendor will be solely responsible for cylinder management. The WC will not be monetarily or otherwise be responsible for any cylinder discrepancies during or after the conclusion of the contract period.
- All products/gases and cylinders (including valves) must meet any and all current mandatory State and Federal regulatory guidelines.
- The amount of each gas/gas type listed in the Attachment B column "Approximate Purchased Annually" is based on historical annual usage for a period of 4 years.

4.5 Security Requirements

Please note that site locations covered by this agreement have mandatory security policies and procedures which must be followed at all times. The Contractor will work with the WC Contract Manager or designee to obtain necessary clearances. The Contractor may be required to provide information such as, but not limited to, the company name, the employee's name (as it appears on ID), valid driver license number, vehicle make, model and license plate, etc.

The Contractor will be required to follow the direction of the WC Contract Manager or designee, as well as the security personnel teams to ensure that the Contractor is compliant with all facility-specific security policies at all time.

5.0 ADMINISTRATIVE INFORMATION

The following administrative information will apply to this IFB. Failure to comply fully with this information may result in disqualification of your bid.

5.1 Restricted Period

“Restricted period” means the period of time commencing with the earliest written notice, advertisement, or solicitation of a Request for Proposals (“RFP”), Invitation for Bids (“IFB”), or solicitation of proposals, or any other method for soliciting a response from Bidders intending to result in a procurement contract with DOH and ending with the final contract award and approval by DOH and, where applicable, final contract approval by the Office of the State Comptroller.

This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this Section may be grounds for a determination that the bidder is non-responsible and therefore ineligible for this contract award. Two violations within four years of the rules against impermissible contacts during the “restricted period” may result in the violator being debarred from participating in DOH procurements for a period of four years.

Pursuant to State Finance Law §§ 139-j and 139-k, the Department of Health identifies a designated contact on face page of this IFB to whom all communications attempting to influence this procurement must be made.

5.2 Questions

There will be an opportunity available for submission of written questions and requests for clarification pertaining to this IFB. All questions and requests for clarification of this IFB should cite the relevant IFB, IFB number, section and paragraph number where applicable and must be submitted via email to robert.miller@health.ny.gov. It is the bidder’s responsibility to ensure that email containing written questions and/or requests for clarification is received at the above address no later than the Deadline for Submission of Written Questions as specified in Section 1.0. (Calendar of Events). Questions received after the deadline may **not** be answered.

5.3 Right to Modify IFB

DOH reserves the right to modify any part of this IFB, including but not limited to, the date and time by which bids must be submitted and received by DOH, at any time prior to the Deadline for Submission of Bids listed in Section 1.0 (Calendar of Events). Modifications to this IFB shall be made by issuance of amendments and/or addenda.

Prior to the Deadline for Submission of Bids, any such clarifications or modifications as deemed necessary by DOH will be posted to the DOH website.

If the bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this IFB, the Bidder shall immediately notify DOH of such error in writing at robert.miller@health.ny.gov and request clarification or modification of the document.

If, prior to the Deadline for Submission of Bids, a bidder fails to notify DOH of a known error or

an error that reasonably should have been known, the bidder shall assume the risk of bidding. If awarded the contract, the bidder shall not be entitled to additional compensation by reason of the error or its correction.

5.4 Payment

The contractor shall submit invoices and/or vouchers to the State's designated payment office. The Preferred Method is to Email a .pdf copy of your signed voucher to the BSC at:

AccountsPayable@ogs.ny.gov with a subject field as follows:

Subject: Unit ID: 3450297 Contract # TBD

The Alternate Method is to Mail vouchers to BSC at the following U.S. postal address:

**NYS Department of Health
Unit ID 3450297
c/o NYS OGS BSC Accounts Payable
Building 5, 5th Floor
1220 Washington Ave.
Albany, NY 12226-1900**

Payment for invoices and/or vouchers submitted by the CONTRACTOR shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The CONTRACTOR shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epayments@osc.state.ny.us or by telephone at 518-474-6019. CONTRACTOR acknowledges that it will not receive payment on any invoices and/or vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

In addition to the Electronic Payment Authorization Form, a Substitute Form W-9 must be on file with the Office of the State Comptroller, Bureau of Accounting Operations. Additional information and procedures for enrollment can be found at <http://www.osc.state.ny.us/epay>.

Completed W-9 forms should be submitted to the following address:

NYS Office of the State Comptroller
Bureau of Accounting Operations
Warrant & Payment Control Unit
110 State Street, 9th Floor
Albany, NY 12236

Payment of such invoices and/or vouchers by the State (NYS Department of Health) shall be made in accordance with Article XI-A of the New York State Finance Law and Section 4.0 Detailed Specifications, Cost Proposal Bid Form - [Attachment B](#) and the satisfaction of the State. Payment terms will be: monthly based on product delivered. All deliveries will be F.O.B. destination.

First year pricing will be based upon the pricing quoted in [Attachment B](#), Cost Proposal Bid Form. Pricing for years 2 through 5 of the contract will be determined by the previous year pricing plus or minus an adjustment of the lesser of three percent (3%) or the percent change in the Producer Price Index (PPI) for Chemicals and Allied Products, Industrial gases (WPU067903) as published by the United States Bureau of Labor Statistics, Washington, D.C., 20212 for the twelve (12) month period ending three (3) calendar months prior to the anniversary date for the preceding twelve-month period.

5.5 Minority & Woman-Owned Business Enterprise Requirements

Pursuant to New York State Executive Law Article 15-A, the New York State Department of Health (“DOH”) recognizes its obligation to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of DOH contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" (“Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that DOH establish goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOH hereby establishes an overall goal of **0%** for MWBE participation, **0%** for Minority-Owned Business Enterprises (“MBE”) participation and **0%** for Women-Owned Business Enterprises (“WBE”) (based on the current availability of qualified MBEs and WBEs and outreach efforts to certified MWBE firms).

5.6 Equal Employment Opportunity (EEO) Reporting

By submission of a bid in response to this solicitation, the Bidder agrees with all of the terms and conditions of [Attachment 8](#), Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. Additionally, the successful bidder will be required to certify they have an acceptable EEO (Equal Employment Opportunity) policy statement in accordance with Section III of Appendix M in [Attachment 8](#).

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age,

disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

To ensure compliance with this Section, the Bidder should submit with the bid or proposal an Equal Employment Opportunity Staffing Plan ([Attachment 5](#), Form #4) identifying the anticipated work force to be utilized on the Contract. Additionally, the Bidder should submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement ([Attachment 5](#), Form # 5), to DOH with their bid or proposal.

5.7 Sales and Compensating Use Tax Certification (Tax Law, § 5-a)

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Tax 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 are 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.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agencies, from approving a contract awarded to an offerer meeting the registration requirements but who is not so registered in accordance with the law.

The successful Bidder must file a properly completed Form ST-220-CA with the Department of Health and Form ST-220-TD with the DTF. These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance's website, available through this link: <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>.

Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

5.8 Contract Insurance Requirements

Prior to the start of work under this Contract, the CONTRACTOR shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, insurance of the types and in the amounts as herein below and set forth in [Attachment 8](#), the New York State Department of Health Contract, Section IV. Contract Insurance Requirements.

5.9 Subcontracting

No subcontracting is allowed.

5.10 DOH's Reserved Rights

The Department of Health reserves the right to:

1. Reject any or all bids received in response to the IFB;
2. Withdraw the IFB at any time, at the agency's sole discretion;
3. Make an award under the IFB in whole or in part;
4. Disqualify any bidder whose conduct and/or bid fails to conform to the requirements of the IFB;
5. Seek clarifications and revisions of bids;
6. Use bid information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB;
7. Prior to the bid opening, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
8. Prior to the bid opening, direct bidders to submit bid modifications addressing subsequent IFB amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the IFB in the best interests of the state;
13. Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder;
14. Utilize any and all ideas submitted in the bids received;
15. Every offer shall be firm and not revocable for a period of three hundred and sixty-five days (365) from the bid opening, to the extent not inconsistent with section 2-205 of the uniform commercial code. Subsequent to such three hundred and sixty-five days (365), any offer is subject to withdrawal communicated in a writing signed by the bidder; and,
16. 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 the solicitation.

5.11 Freedom of Information Law ("FOIL")

All bids may be disclosed or used by DOH to the extent permitted by law. DOH may disclose a bid to any person for the purpose of assisting in evaluating the bid or for any other lawful

purpose. All bids will become State agency records, which will be available to the public in accordance with the Freedom of Information Law. Any portion of the bid that a Bidder believes constitutes proprietary information entitled to confidential handling, as an exception to the Freedom of Information Law, must be clearly and specifically designated in the bid as directed in Section 6.3.6 of the IFB. If DOH agrees with the proprietary claim, the designated portion of the bid will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

5.12 Lobbying

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005, made significant changes as it pertains to development of procurement contracts with governmental entities. These changes include:

- a) making the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations;
- b) requiring the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements;
- c) requiring governmental entities to designate persons who generally may be the only staff contacted relative to the governmental procurement by that entity in a restricted period;
- d) authorizing the New York State Commission on Public Integrity, (now New York State Joint Commission on Public Ethics), to impose fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators;
- e) directing the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website;
- f) requiring the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment; (Bidders responding to this IFB should submit a completed and signed [Attachment 1](#), "Prior Non-Responsibility Determination".)
- g) increasing the monetary threshold which triggers a lobbyist's obligations under the Lobbying Act from \$2,000 to \$5,000; and
- h) establishing the Advisory Council on Procurement Lobbying.

Subsequently, Chapter 14 of the Laws of 2007 amended the Lobbying Act of the Legislative Law, particularly as it related to specific aspects of procurements as follows: (i) prohibiting lobbyists from entering into retainer agreements on the outcome of government grant making or other agreement involving public funding; and (ii) reporting lobbying efforts for grants, loans and other disbursements of public funds over \$15,000.

The most notable, however, was the increased penalties provided under Section 20 of Chapter 14 of the Laws of 2007, which replaced old penalty provisions and the addition of a suspension option for lobbyists engaged in repeated violations. Further amendments to the Lobbying Act were made in Chapter 4 of the Laws of 2010.

Questions regarding the registration and operation of the Lobbying Act should be directed to the New York State Joint Commission on Public Ethics.

5.13 State Finance Law Consultant Disclosure Provisions

In accordance with New York State Finance Law Section 163(4)(g), State agencies must require all contractors, including subcontractors, that provide consulting services for State purposes pursuant to a contract to submit an annual employment report for each such contract.

The successful bidder for procurements involving consultant services must complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" in order to be eligible for a contract.

The successful winning bidder must also agree to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. This report must be submitted annually to the Department of Health, the Office of the State Comptroller, and Department of Civil Service.

State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report may be accessed electronically at:

<http://www.osc.state.ny.us/agencies/forms/ac3271s.doc>

and

<http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>.

5.14 Debriefing

Once an award has been made, bidders may request a debriefing of their bid. Please note the debriefing will be limited only to the vendor's bid, and will not include any discussion of other bids. Requests must be received no later than fifteen (15) business days from date of award or non-award announcement.

5.15 Protest Procedures

In the event unsuccessful bidders wish to protest the award resulting from this IFB, bidders should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO). Available on-line at: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

5.16 Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the

“Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website (currently found at this address: <https://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should DOH receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, DOH will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then DOH shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default. DOH reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

5.17 Piggybacking

New York State Finance Law section 163(10)(e) (see also <http://www.ogs.ny.gov/BU/PC/SFL.asp>) allows the Commissioner of the NYS Office of General Services to consent to the use of this contract by other New York State Agencies, and other authorized purchasers, subject to conditions and the Contractor’s consent.

5.18 Encouraging Use of New York Businesses in Contract Performance

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its contractors. New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. All bidders should complete [Attachment 6](#), Encouraging Use of New York Businesses in Contract Performance, to indicate their intent to use/not use New York Businesses in the performance of this contract.

5.19 Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. DOH recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of DOH contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, DOH conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidders are encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

5.20 EO 177 Prohibiting Contracts with Entities that Support Discrimination

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics. In accordance with Executive Order No. 177, the Offeror certifies that they do not have institutional policies or practices that fail to address those protected status under the Human Rights Law.

5.21 Vendor Assurance of No Conflict of Interest or Detrimental Effect

All bidders responding to this solicitation should submit [Attachment 4](#) to attest that their performance of the services outlined in this IFB does not create a conflict of interest and that the bidder will not act in any manner that is detrimental to any other State project on which they are rendering services.

6.0 BID FORMAT AND CONTENT

Bidders responding to this IFB must satisfy all Requirements stated in this IFB. A bid that is incomplete in any material respect may be rejected.

To expedite review of the bids, Bidders are requested to submit bids as summarized in Attachment A, Bid Submittal Document Checklist. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications.

DOH will not be responsible for expenses incurred in preparing and submitting the Bid Packages. Such costs should not be included in the Bid.

6.1 Mandatory Bid Requirements

The purpose of the Mandatory Bid Requirements, is to demonstrate the qualifications, competence, and capacity of the Bidder to provide the commodity or services contained in this IFB. The following outlines the required information to be provided by the Bidders. The information requested should be provided in the prescribed format. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the IFB are subject to verification for accuracy.

6.1.1 Mandatory Site Visit

Bidders must attend the Mandatory Site Visit and must attend and sign in at each location (Section 3.0).

6.1.2 Bidders Minimum Qualifications to Propose

- The bidder shall have a minimum of three (3) years-experience with comprehensive next-day gas delivery service including a full line of cylinder gases required for use in a laboratory setting as specified within the IFB.
 - The bidder should submit a description of how the bidder meets the Minimum Qualification of a minimum of three (3) years-experience with comprehensive next-day gas delivery service including a full line of cylinder gases required for use in a laboratory setting as specified within the IFB in support of the Bidders Minimum Qualifications to Propose, Section 3.0.
- The bidder must be currently providing similar services as defined in Section 4.1. Definition, for three (3) or more customers.
 - The bidder should provide a brief explanation of services provided for three (3) or more customers for which the bidder currently provides similar services as defined in Section 4.1 Definitions (experience delivering the types of gases included in this IFB directly into laboratories. Dock delivery or delivery into a staging room or area does not qualify) in support of the Bidders Minimum Qualifications to Propose, Section 3.0. Bidder's experience must be verifiable by the submittal of a listing of three (3) or more customers for which they are currently providing similar services. Provide a contact name, addresses, email and phone number for each customer, dates of contract service, and brief description of the service provided.

6.2 Cost Proposal Bid Form (Attachment B)

Bidder must submit a completed and signed Attachment B – **Cost Proposal Bid Form**. The Cost Proposal Bid Form must comply with the format and content requirements as detailed in this document and in Attachment B. Failure to comply with the format and content requirements may result in disqualification.

The prices bid must cover the cost of furnishing all of the products or services specified in this IFB, including but not limited to materials, equipment, profit and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.

Bidders must provide a price for all products in sizes and quantities exactly as listed in Cost Proposal Bid Form - Attachment B. Bids which do not include a price for all products will be disqualified. Bids which add alternative products, quantities or sizes will be disqualified.

6.3 Other Bid Documents

6.3.1 Bidder's Certified Statements

Submit [Attachment 7](#), "Bidder's Certified Statements", which includes information regarding the Bidder. [Attachment 7](#) must be signed by an individual authorized to bind the Bidder contractually. Please indicate the title or position that the signer holds with the Bidder. DOH reserves the right to reject a bid that contains an incomplete, unsigned or no [Attachment 7](#).

6.3.2 M/WBE Forms

Submit completed Form #4 and Form #5 as directed in [Attachment 5](#), "New York State DOH M/WBE IFB Required Forms".

6.3.3 Bidder's Disclosure of Prior Non-Responsibility Determinations

Submit a completed and signed [Attachment 1](#), "Bidder's Disclosure of Prior Non-Responsibility Determination".

6.3.4 Encouraging Use of New York Businesses in Contract Performance

Submit [Attachment 6](#), "Encouraging Use of New York State Businesses in Contract Performance" to indicate which New York State Businesses you will use in the performance of the contract.

6.3.5 Vendor Responsibility Questionnaire

Complete, certify, and file a New York State Vendor Responsibility Questionnaire. DOH recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions at <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the OSC Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website, www.osc.state.ny.us/vendrep, or may contact the Office of the State Comptroller's Help Desk for a copy of the paper form. Bidder's should complete and submit the Vendor Responsibility Attestation, [Attachment 3](#).

6.3.6 Freedom of Information Law – Bid Redactions

Bidders must clearly and specifically identify any portion of the bid that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See Section 5.11, (Freedom of Information Law).

6.3.7 Conflict of Interest or Detrimental Effect

Submit [Attachment 4](#), Vendor's Assurance of No Conflict of Interest or Detrimental Effect, which includes information regarding the Bidder, members, shareholders, parents, affiliates or subcontractors. [Attachment 4](#) must be signed by an individual authorized to bind the Bidder contractually.

6.3.8 EO 177 Prohibiting Contracts with Entities that Support Discrimination

Submit [Attachment 11](#) certifying that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

7.0 BID SUBMISSION

7.1 The table below outlines the requested format and volume for submission of each part. Bids should be submitted in all formats as prescribed below.

| | |
|----------------------|-------------------------|
| | Paper Submission |
| Bid Proposal Package | 4 Originals 4 Copies |

7.1.1 All hard copy bid materials should be printed on 8.5" x 11" white paper (single sided), be clearly page numbered on the bottom of each page with appropriate header and footer information and presented separately, in three-ring binders if necessary. A type size of eleven (11) points or larger should be used;

7.1.2 The Bid Proposal should be submitted in a sealed envelope or box.

7.1.3 Where signatures are required, the bids designated as originals should have a handwritten signature and be signed in blue ink;

7.1.4 The NYSDOH discourages overly lengthy bids. Therefore, marketing brochures, user manuals or other materials, beyond that sufficient to present a complete bid, are not desired. Elaborate artwork or expensive paper is not necessary or desired. In order for the NYSDOH to evaluate bids fairly and completely, bids should follow the format described in this IFB and provide all requested information;

7.1.5 Audio and/or videotapes are not allowed. Any submitted audio or videotapes will be ignored by the evaluation team.

The complete bid must be received by the NYSDOH, no later than the Deadline for Submission of Bids specified in Section 1.0, (Calendar of Events). Late bids will not be considered.

Bids should be submitted in a clearly labeled package, prepared in accordance with the requirements stated in this IFB. Mark the outside envelope of bid as "IFB#17850 entitled "Purchase and Delivery of Scientific, Specialty, Liquid and Industrial Gases".

Bids must be submitted, by U.S. Mail, by courier/delivery service (e.g., FedEx, UPS, etc.) or by hand as noted below, in a sealed package to:

Department of Health IFB # 17850 entitled "Purchase and Delivery of Scientific, Specialty, Liquid and Industrial Gases":

Attention: Robert Miller
New York State Department of Health
Wadsworth Center
Empire State Plaza, Biggs Laboratory, Room B776
P.O. Box 509
Albany, New York 12201
Telephone: 518-474-2950
Email Address: robert.miller@health.ny.gov

or by courier:

Attention: Robert Miller
Biggs Laboratory
Wadsworth Center
NYS Department of Health
Dock J – P1 Level
Empire State Plaza
Albany, NY 12237

NOTE: You should request a receipt containing the time and date received and the signature of the receiver for all hand-deliveries and ask that this information also be written on the package(s).

Submission of bids in a manner other than as described in these instructions (e.g., fax, electronic transmission) will not be accepted.

7.2 No Bid Form

Bidders choosing not to bid are requested to complete the No-Bid form [Attachment 2](#).

8.0 METHOD OF AWARD

At the discretion of the Department of Health, all bids may be rejected. The Department will award one (1) contract as described in this IFB to the responsible and responsive bidder who offers the lowest total bid price.

In the event of a tie, the determining factor(s) for award, -in descending order-, will be:

1. New York State Business Enterprise
2. Past Experience

8.1 General Information

Once a bidder is selected, the Department of Health will issue a contract to the vendor. In order to be considered responsible and responsive, the bid must include all Invitation for Bid (IFB) required documents and meet the minimum qualifications as stated in the IFB. Bids that do not meet the minimum qualifications will not be considered for award.

Bidders may be requested by DOH to clarify the contents of their proposals. Other than to provide such information as may be requested by DOH, no Bidder will be allowed to alter its bid after the Deadline for Submission of Proposals listed in Section 1. (Calendar of Events).

8.2 Submission Review

DOH will examine all bids that are received in a proper and timely manner. The bid containing the lowest total price offered will be further evaluated to determine if it meets all bid submission requirements, as described in Section 6. (Bid Format and Content) and Section 7 (Bid Submission) for award. That process will be followed until an award is made.

8.3 Award Recommendation

The Evaluation Committee will submit a recommendation for award to the responsible and responsive Bidder with the lowest total bid.

The Department will notify the awarded Bidder and Bidders not awarded. The awarded Bidder will enter into a written Agreement substantially in accordance with the terms of [Attachment 8](#), DOH Agreement, to provide the required services as specified in this IFB. The resultant contract shall not be binding until fully executed and approved by the New York State Office of the Attorney General and the Office of the State Comptroller.

9. ATTACHMENTS

The following attachments are included in this RFP and are available via hyperlink or can be found at: <https://www.health.ny.gov/funding/forms/>.

1. Attachment 1 - [Bidder's Disclosure of Prior Non-Responsibility Determination](#)
2. Attachment 2 - [No-Bid Form](#)
3. Attachment 3 - [Vendor Responsibility Attestation](#)
4. Attachment 4 - [Vendor Assurance of No Conflict of Interest or Detrimental Effect](#)
5. Attachment 5 - [Guide to New York State DOH M/WBE Required Forms & Forms](#)
6. Attachment 6 - [Encouraging Use of New York Businesses in Contract Performance](#)
7. Attachment 7 - [Bidder's Certified Statements](#)
8. Attachment 8 - [DOH Agreement](#) (Standard Contract)
9. Attachment 11- [Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination](#)

The following attachments are included in this IFB:

- A Bid Submittal Document Checklist
- B Cost Proposal Bid Form
(provided in Excel format as a separate file on the Department's Grant/Funding Opportunities webpage for IFB #17850 found at <https://www.health.ny.gov/funding/>).

ATTACHMENT A
BID PACKAGE CHECKLIST

Please reference Section 7.0 for the appropriate format and quantities for proposal submission.

| IFB #17850 – entitled “Purchase and Delivery of Scientific, Specialty, Liquid and Industrial Gases” | | |
|--|---|--------------------------|
| FOR THE BID PROPOSAL PACKAGE | | |
| IFB § | CRITERIA | INCLUDED |
| § 6.1.1 | Mandatory Site Visit (Requirement) | <input type="checkbox"/> |
| § 6.1.2 | Bidder’s Minimum Qualifications to Propose (Requirement) | <input type="checkbox"/> |
| § 6.2 | Attachment B- Cost Proposal Bid Form (Requirement) | <input type="checkbox"/> |
| § 6.3.1 | Attachment 7- Bidder’s Certified Statements, completed & signed. | <input type="checkbox"/> |
| § 6.3.2 | M/WBE | <input type="checkbox"/> |
| | Attachment 5 Form 4 | <input type="checkbox"/> |
| | Attachment 5 Form 5 | <input type="checkbox"/> |
| § 6.3.3 | Attachment 1 – Disclosure of Prior Non-Responsibility Determinations, completed and signed. | <input type="checkbox"/> |
| § 6.3.4 | Attachment 6 - Encouraging Use of New York Businesses in Contract Performance | <input type="checkbox"/> |
| § 6.3.5 | Attachment 3- Vendor Responsibility Attestation | <input type="checkbox"/> |
| § 6.3.6 | Freedom of Information Law – Proposal Redactions (If Applicable) | <input type="checkbox"/> |
| § 6.3.7 | Attachment 4 – Vendor Assurance of No Conflict of Interest | <input type="checkbox"/> |
| § 6.3.8 | Attachment 11 – Executive Order 177 Prohibiting Contracts with Entities that Support Discrimination | <input type="checkbox"/> |

ATTACHMENT B

The Cost Proposal Bid Form is provided in Excel format as a separate file on the Department's Grant/Funding Opportunities webpage for IFB #17850 found at <https://www.health.ny.gov/funding/>.