

THE PORT AUTHORITY OF NY & NJ

**PROCUREMENT DEPARTMENT
4 WORLD TRADE CENTER
150 GREENWICH STREET, 21ST FL.
NEW YORK, NY 10007**

5/19/2017

ADDENDUM # 4

To prospective Bidder(s) on Bid # 48815: Utility Track Vehicles and Associated

Spare Parts for PATH (FTA):

Now due back on 6/2/2017, no later than 11:00 AM

Originally due back on 5/26/2017

I. CHANGES/MODIFICATIONS

The following changes/modifications are hereby made to the solicitation document:

A. The Bid Due Date is hereby extended to 6/2/2017, no later than 11:00 AM.

B. Part III, Contract Specific Terms and Conditions:

1. Replace the first sentence in Section 8 "Title to Materials" with the following:

"All manufactured equipment, specifications, working drawings, shop drawings, spare parts, and training programs/materials required by this Contract to be provided to the Port Authority shall be and become the property of the Authority upon successful completion of commissioning and acceptance testing by PATH."

2. Replace the paragraph in Section 12 "Default-Delays" with the following:

"If the Contractor fails to perform in accordance with the terms of this Contract, the Authority shall notify the Contractor in writing of such delay t and provide the Contractor a cure period of not less than thirty (30) days from the date of the notice to resolve any valid delay default listed on the notice. In the event Contractor does not remedy the valid delay default listed on the notice in the time frame provided, the Authority may obtain the goods or services from another source and charge the Contractor the difference in price and a reletting cost, if any, plus any other damages that the Port Authority may deem appropriate."

3. Replace Section 14 "Insurance Procured by the Contractor" in its entirety with the revised attached labeled "(Revised 5/19/2017)".

C. Part IV, Pricing Sheet:

Replace the Pricing Sheet in its entirety with the revised attached labeled “(Revised 5/19/2017)”.

II. BIDDER'S QUESTIONS AND ANSWERS

The following information is available in response to questions submitted by prospective Bidders. The responses should not be deemed to answer all questions which have been submitted by Bidders to the Port Authority. It addresses only those questions which the Port Authority has deemed to require additional information and/or clarification. The fact that information has not been supplied with respect to particular questions asked by Bidders does not mean or imply, nor should it be deemed to mean or imply, any meaning, construction, or implication with respect to the terms.

The Port Authority makes no representations, warranties or guarantees that the information contained herein is accurate, complete or timely or that such information accurately represents the conditions that would be encountered during the performance of the Contract. The furnishing of such information by the Port Authority shall not create or be deemed to create any obligation or liability upon it for any reason whatsoever and each Bidder, by submitting its Bid, expressly agrees that it has not relied upon the foregoing information, and that it shall not hold the Port Authority liable or responsible therefor in any manner whatsoever. Accordingly, nothing contained herein and no representation, statement or promise, of the Port Authority, its Commissioners, officers, agents, representatives, or employees, whether made orally or in writing, shall impair or limit the effect of the warranties of the Bidder required by this Bid or Contract and the Bidder agrees that it shall not hold the Port Authority liable or responsible therefor in any manner whatsoever.

The Questions and Answers numbering sequence will be continued sequentially in any forthcoming Addenda that may be issued.

Question #22	In reference to default-delays, would PATH consider a reasonable Contractor cure period before PATH acts on any remedies?
Answer #22	See above Modification B 2.
Question #23	Would PATH consider modifications to the insurance requirements?
Answer #23	See above Modification B 3.
Question #24	Would PATH clarify the Units for Training on the Pricing Sheets in relation to Section 43 “Startup and Training” in Part Two of Part V?
Answer #24	See above Modification C.
Question #25	Would PATH consider modifications to the indemnification provisions and the Contractor’s liability?
Answer #25	No.

Question #26	Please clarify what PATH wants title to.
Answer #26	See above Modification B 1.

This communication should be initialed by you and annexed to your Bid upon submission.

In case any Bidder fails to conform to these instructions, its Bid will nevertheless be construed as though this communication had been so physically annexed and initialed.

THE PORT AUTHORITY OF NY & NJ

SELENE ORTEGA, MANAGER
COMMODITIES & SERVICES DIVISION

BIDDER'S FIRM NAME: _____

INITIALED: _____

DATE: _____

QUESTIONS CONCERNING THIS ADDENDUM MAY BE ADDRESSED TO JOHN SANTIAGO AT John.Santiago@panynj.gov OR (212) 435-4613.

14. Insurance Procured by the Contractor

The Contractor, and any of its sub-contractors, shall take out, maintain, and pay the premiums on Commercial General Liability Insurance, including but not limited to premises-operations, products-completed operations, and independent contractors coverage, with contractual liability language covering the obligations assumed by the Contractor under this Contract, with insurance covering against claims for injuries to persons or damages to property which may arise from or in connection with products and materials supplied to the Agency, and, if vehicles are to be used to carry out the performance of this Contract, then the Contractor shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering owned, non-owned, and hired autos in the following minimum limits:

Commercial General Liability Insurance: \$10 million combined single limit per occurrence and in the annual aggregate, which aggregate shall apply separately to this project, for bodily injury and property damage liability, and shall not exclude any environmental exposures.

Automobile Liability Insurance: \$10 million combined single limit per accident for bodily injury and property damage liability.

Profession Liability Insurance: \$5 million per claim and in the aggregate, against liability arising out of professional services with an extended three (3) year discovery reporting period.

Railroad Protective Liability Insurance: If any work is being performed within 50 feet of a Railroad, the Contractor shall take out and maintain a **Railroad Protective Liability Insurance, in limits of \$3 million per occurrence and \$6 million in the annual aggregate**, and name the Port Authority Trans Hudson as an “Insured”

The insurance shall be written on an occurrence basis, as distinguished from a “claims made” basis, and shall not include any exclusions for “action over claims” (insured vs. insured) and minimally arranged to provide and encompass at least the following coverages:

- Contractual Liability to cover liability assumed under the Contract;
- Independent Contractor’s Coverage;
- Premise-Operations, Products and Completed Operations Liability Insurance;
- The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Contractor and all subcontractor(s) shall be primary insurance and non-contributory with respect to the additional insureds;
- Excess/umbrella policies shall “follow form” to the underlying policy;
- Excess/umbrella policies shall have a liberalization clause with drop down provision;
- Coverage for explosion, collapse and underground property damage (XCU);
- To the extent any coverage the Contractor and subcontractor(s) obtains and/or maintains under this Contract contains “Other Insurance” language or provisions,

- such language or provisions shall not be applicable to the additional insureds or to any insurance coverage maintained by the additional insureds;
- All insurance policies shall include a waiver of subrogation, as allowed by law, in favor of the additional insureds;
 - Defense costs must be outside of policy limits. Eroding limits policies are not permitted;
 - In the event the Contractor and/or its subcontractors obtains and/or maintains broader coverage and/or insurance in an amount greater than the minimum limits required under this Contract, then the full limits of that insurance coverage will be available to respond to any claim asserted against the additional insureds that arises out of or is in any way connected with this Contract;
 - Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law.

In addition, the liability policy(ies) shall be written on a form at least as broad as ISO Form CG 20 10 10 01 (for ongoing operations work) together with ISO Form CG 20 37 10 01 (for completed operations work) or their equivalent and endorsed to and name "The Port Authority of New York and New Jersey, The Port Authority Trans-Hudson Corporation, and its related entities, their Commissioners, Directors, Superintendents, officers, partners, employees, agents, their affiliates, successors or assigns as "Insured" (as defined in the policy or in an additional insured endorsement amending the policy's "Who is An Insured" language as the particular policy may provide) on its liabilities policies with respect to liability arising out of work or operations performed by or on behalf of the Vendor including but not limited to materials, parts, or equipment furnished in connection with such work or operations. The "Insured" shall be afforded coverage and defense as broad as if they are the first named insured and regardless of whether they are otherwise identified as additional insured(s) under the liability policies, including but not limited to premise-operations, products-completed operations on the Commercial General Liability Policy. Such additional insureds status shall be provided regardless of privity of contract between the parties. The liability policy(ies) and certificates of insurance shall contain separation of insured and severability of interests clauses for all policies so that coverage will respond as if separate policies were in force for each insured. An act or omission of one of the insureds shall not reduce or void coverage to the other insureds. The Contractor is responsible for all deductibles or losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Contractor is subject to the review and approval of the General Manager, Risk Finance. Furthermore, any insurance or self-insurance maintained by the above additional insureds shall not contribute to any loss or claim.

If any of the Work is to be done on or at Port Authority facilities by subcontractors and, if the Contractor requires its subcontractors to procure and maintain such insurance in the name of the Contractor, then such insurance as is required herein shall include and cover the additional insureds and it must have insurance limits not lower than those set forth by the Port Authority herein, along with all the insurance requirements in this section known as "Insurance Procured by the Contractor".

All insurance coverage shall be provided by the Contractor and/or by or for any of its subcontractors at no additional expense to the Port Authority and its related entities. A copy of this section titled "Insurance Procured by the Contractor" shall be given to your insurance agent and subcontractors and shall form a part of the covered contract or subcontract for insurance purposes in furtherance of the insurance requirements under this Contract.

Further, it is the Contractor's responsibility to maintain, enforce and ensure that the type of coverages and all limits maintained by it and any or all subcontractors are accurate, adequate and in compliance with the Port Authority requirements; and the Contractor is to retain a copy of its subcontractors' certificates of insurance. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, including subcontractors' work, and upon completion of the Contract.

The Contractor, its subcontractors, and its insurers shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

The Contractor and its subcontractor(s) shall also take out, maintain, and pay premiums on Workers' Compensation Insurance in accordance with the requirements of law in the state(s) where work will take place, and Employer's Liability Insurance with limits of not less than \$1 million per each accident, and shall include a waiver of subrogation endorsement in the benefit of the Port Authority of New York and New Jersey and Port Authority Trans Hudson.

Each policy above shall contain an endorsement that the policy may not be canceled, terminated, or modified without thirty (30) days' prior written notice to the Port Authority Att: Facility Contract Administrator, at the location where the work will take place with a copy to the General Manager, Risk Finance.

The Port Authority may, at any time during the term of this Contract, change or modify the limits and coverages of insurance. Should the modification or change results in an additional premium, the General Manager, Risk Finance for the Port Authority may consider such cost as an out-of-pocket expense.

Within five (5) days after the award of this Contract and prior to the start of work, the Contractor must submit an original certificate of insurance to the Port Authority Facility Contract Administrator, at the location where the work will take place. This certificate of insurance MUST show evidence of the above insurance policy(ies), including, but not limited to, the cancellation notice endorsement and stating the contract number prior to the start of work. The Contractor is also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors or assigns. The General Manager, Risk Finance must approve the certificate(s) of insurance before any work can begin. Upon request by the Port Authority, the

Contractor shall furnish to the General Manager, Risk Finance, a certified copy of each policy, including the premiums.

If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then the Contractor and all subcontractors shall suspend performance of the Contract at the premises until a satisfactory insurance policy(ies) and certificate of insurance is provided to and approved by Risk Finance, unless the Facility or Project Manager directs the Contractor, in writing, to continue to performing work under the Contract. If the Contract is so suspended, no extension of time shall be due on account thereof.

Renewal certificates of insurance or policies shall be delivered to the Port Authority Facility Contractor Administrator, and upon request from the additional insureds, their successors or assigns at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Management must approve the renewal certificate(s) of insurance before work can resume on the facility.

If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Contractor shall promptly obtain a new and satisfactory certificate and policy and provide same to the Port Authority.

Failure by the Contractor to meet any of the insurance requirements, including the requirement that the Port Authority be afforded the full extent of the insurance obtained under this Contract without limitation, shall be deemed a material breach of contract and may be a basis for termination of this Contract by the Port Authority.

The requirements for insurance procured by the Contractor and subcontractor(s) shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Contractor under this Contract. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance necessary to protect the Contractor against the obligations imposed on it by law or by this or any other contract. *[CITS #5329N]*

PRICING SHEET

Item No.	Description	Qty.	Unit	Unit Price	Total Delivered Contract Price
1	UTVs	8	Each	\$	\$
2	Spare Parts, as provided in Part V, Section 42, Paragraph d., Item 1 (3 complete sets of filters per UTV)	8	Lots	\$	\$
3	Spare Parts, as provided in Part V, Section 42, Paragraph d., Item 2 (4 couplers and yolks)	4	Each	\$	\$
4	Complete Spare Engines, as provided in Part V, Section 42, paragraph d., Item 3	2	Each	\$	\$

Item No.	Description	Lump Sum Contract Price
5	Training, as provided in Part V, Section 43 (7 days total)	\$

TOTAL ESTIMATED DELIVERED CONTRACT PRICE: \$ _____
(Sum of Items 1 to 5)

LEAD TIME:

Indicate lead-time necessary for completion of fabrication, testing and delivery of equipment (see Part III, Section 4 entitled "Delivery Requirements"):

_____ Weeks after return of approved drawings

AWARD WILL BE MADE TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE TOTAL ESTIMATED DELIVERED CONTRACT PRICE.