

# **THE PORT AUTHORITY OF NY & NJ**

PROCUREMENT DEPARTMENT  
2 MONTGOMERY STREET, 3<sup>RD</sup> FL.  
JERSEY CITY, NJ 07302

4/8/2014

## **ADDENDUM # 5**

To prospective Bidder(s) on Bid # 37137 Construction and Delivery of Three (3) Refurbished Switcher Locomotives for New York New Jersey Rail, LLC at Port Authority Marine Terminal, Greenville Yard, Jersey City, NJ

NOTE: These services may be funded in whole or in part by the Federal Highway Administration (FHWA). Accordingly, the FHWA requirements will be required as part of the agreement and will be applicable to the performance of such services.

Due back on 4/10/2014, no later than 11:00 AM

- I. CONTRACT BOOKLET CHANGES/MODIFICATIONS.
- II. BIDDER'S QUESTIONS AND ANSWERS (NUMBERS 28 -32)

THE ANSWERS FURNISHED SHALL BE AN INTERGAL PART OF THE OF THE CONTRACT SPECIFICATIONS AND REQUIREMENTS.

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 any questions asked by a 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, oral 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.

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<i>Question #28</i>	Can a bidder provide a proposal for more than one locomotive model (HP class) for evaluation and award consideration by The Port Authority provided the multiple HP class locomotives are within the locomotive equipment specifications and contract terms and conditions of the subject RFP?
<i>Answer #28</i>	NO. The bidder can only issue a single Bid.
<i>Question #29</i>	If the answer to Question 28 is “YES”, then is the bidder required to submit separate bid bonds in an amount equal to five percent (5%) of the total bid price for each locomotive proposed or will one bid bond in an amount equal to five percent (5%) of the total bid price of the more expensive locomotive suffice?
<i>Answer #29</i>	See answer to number 28. The bidder can only issue a single Bid.
<i>Question #30</i>	The requirement of a performance bond is subject to The Port Authority’s discretion, post facto to the contract award. Since this may or may not be a realized cost to the awardees’, should the pricing of the performance bond be included in the total contract price submitted by the bidders?
<i>Answer #30</i>	NO. While pricing a Bid is a business decision, see Part III, Section 13, specifically page 10, second to last paragraph.
<i>Question #31</i>	<p>Part III “Contract Specific Terms and Conditions” includes, inter alia, Paragraph 10, which in turn requires Attachment E, “Title 23 and Federal Grant Recipients”. Attachment E then includes Attachment A “Summary of Key Title 23 and Federal Grant Provisions” which is subtitled “Financial and Administrative Requirements” and which Standards for financial management systems, and a definition of Allowable Costs”. The requirements applicable to grant recipients, in this instance The Port Authority of NY&amp;NJ (Port Authority) must be met for the Port Authority to receive grant funds. Attachment A then references “Allowable Costs” in paragraph 2 and 3 and specifically limits the use of grant funds to allowable costs of grantees. Paragraph 3B then identifies the process to identify allowable costs based on the organization which incurs the costs. Commercial contractors “allowable costs” are identified in 48 CFR Part 31. However, many commercial contractors do not collect or report costs in accordance with 48 CFR Part 31.</p> <p>Is Attachment A to Attachment E to Part III which limits grantee reimbursement to allowable costs incurred by contractors (proposers) intended to apply to contractors? Are contractors responding to this Invitation to Bid expected to propose only costs which meet the applicable “allowable cost” definition? Will bids prepared using contractors existing accounting systems and processes, but which do not apply the applicable “cost principles”, i.e. 48 CFR Part 31, be</p>

	considered unresponsive?
<i>Answer #31</i>	Bidders are expected to submit an all-inclusive price for each locomotive. The Port Authority will issue payments to the Contractor in accordance with PART III – CONTRACT SPECIFIC TERMS AND CONDITIONS, Pages 2 and 3, Paragraph 4. Payment/Progress Payments. The Port Authority will seek reimbursement from the FHWA separate and apart from any payment issued by the Port Authority to the Contractor.
<i>Question #32</i>	Part IV of the Invitation for Bid package “Signature Sheet, Name and Residence of Principals and Pricing Sheet(s), Table of Contents” includes a request for “Certificate of Current Cost or Pricing data”, yet “Cost or pricing data” is not defined within the bid package. What specifically does this certification represent? Is the intent of this requirement to meet the Federal Acquisition Regulation Part 15.4 requirement for submission of certified cost or pricing data? If so, have the exceptions at 15.403-1(b) been considered?
<i>Answer #32</i>	Bids that do not include a signed Certificate of Cost and Pricing Data, may be considered non-responsive. As part of the Bid analysis, the Port Authority will take all the necessary steps to determine if prices are considered fair and reasonable. This includes, but is not limited to, the Exceptions outlined in FAR Section 15.403-1.
<i>Question #33</i>	Is there a possible 1-week extension?
<i>Answer #33</i>	NO.

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

KATHY LESLIE WHELAN  
ASSISTANT DIRECTOR  
COMMODITIES AND SERVICES DIVISION

BIDDER'S FIRM NAME: \_\_\_\_\_

INITIALED: \_\_\_\_\_

DATE: \_\_\_\_\_

QUESTIONS CONCERNING THIS ADDENDUM MAY BE ADDRESSED TO LARRY WAXMAN, WHO CAN BE REACHED AT (201) 395-3951 or at [Lwaxman@panynj.gov](mailto:Lwaxman@panynj.gov). ADDENDUM #5 37137

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