



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
Office of Budget & Management Analysis
Bureau of Fiscal Services
Building 9, Room 234
W.A. Harriman Campus
Albany, NY 12227

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May 13, 2009

AMENDMENT #1
**IMPORTANT NOTIFICATION TO BIDDERS PERTAINING TO SALE NUMBER 09-11,
RESTRICTED SALE OF CONFISCATED CIGARETTES**

To all Potential Bidders:

The Department of Taxation and Finance is amending **Sale Number 09-11, *Restricted Sale of Confiscated Cigarettes***, issued on April 27, 2009, to update language and/or product information in segments of Form CG-55, Form CG-55.2, and Form CG-55.1. Amended information can be found on the Department's website at <http://www.nystax.gov/procurement/> and is also highlighted below.

1. Form CG-55 – Restricted Sale of Confiscated Cigarettes/Tobacco Products

The Department is amending the number of cartons of cigarettes seized as follows:

“On various dates, the New York State Department of Taxation and Finance seized approximately 44,000 cartons of unstamped cigarettes on which the New York State cigarette excise tax had not been paid...”

The Department is amending the bid due date section as follows:

The NYS Tax Department reserves the right to reject any bid if:
The bid is received in the NYS Tax Department, Office of Budget and Management Analysis, Building 9, Room 234, W A Harriman Campus, Albany, NY 12227, after **2 p.m. EST Friday, June 5, 2009.**

2. Form CG-55.2 – Offer Form

The Department is amending the deadline for receiving bid as follows:

“Deadline for receiving bid is **2 p.m. EST Friday, June 5, 2009.**”

3. Form CG-55.1 – Inventory of Confiscated Cigarette/Tobacco Products

The Department is withdrawing the following Lot Numbers from Sale Number 09-11; therefore, these lot numbers are NOT available for bid:

Lot Numbers C21, C22, C23, C24, C25, C26, C27, C28, C29, C30

Lot Numbers C44, C45, C46, C47, C48

Lot Numbers C56, C57, C58, C59

- 4. The Department is requiring winning bidders to sign a certification form upon retrieving product lots awarded. This form certifies the licensed stamping agent will do one of the following:**
- a. Destroy all unstamped products purchased; or**
 - b. Stamp the products with a New York State cigarette stamp for the products to be sold in New York State.**

Note for those bidders who may have prepared and/or mailed a bid package to meet the original bid deadline of 2 p.m. EST Friday, May 15, 2009: The Department will honor and accept bids for Sale Number 09-11. However, upon bid opening date, where applicable, Offer Forms (CG-55.2) will be adjusted to reflect the withdrawal of all lot numbers specified above.

Bidders who wish to withdraw an Offer Form, CG-55.2 based on the amended information for Sale Number 09-11, should contact this office prior to 2 p.m. EST Friday, June 5, 2009.

All other requirements and conditions of Sale Number 09-11 remain as indicated in the Sale.

The Department is no longer mailing copies of the various sale documents. Amended auction information, bid documents and product information can be found on the Department's website at <http://www.nystax.gov/procurement/>. If you require a hardcopy of the bid documents, please call this office.

If you are interested in submitting a bid, please complete and return the Bidder's Declaration section of Form CG-55 as well as Form CG-55.2, Offer Form. Each offer must be accompanied by a certified check, money order or bank cashier's check in the amount of ten (10%) of the total bid. The sale number should be noted on your envelope and your payment. All bid materials must be received no later than **2 p.m. EST Friday, June 5, 2009**. Bids can **NOT** be submitted via the internet.

Please be reminded that interested bidders must possess a current stamping agent license, and the successful bidders have 20 business days to retrieve product lots awarded.

Please call (518) 457-0954 if you have any questions on this material.



New York State Department of Taxation and Finance
 Office of Budget and Management Analysis
**Restricted Sale of Confiscated
 Cigarettes/Tobacco Products**

CG-55
 (3/08)

Sale number: 09-11 *AMENDED 5/13/09
 Sale date: June 2009

Seller: New York State
 Location of sale: Building 9 Room 234
 W A Harriman Campus
 Albany NY 12227

On various dates, the New York State Department of Taxation and Finance
 seized approximately 44,000 cartons of unstamped cigarettes

_____ on which the New York State cigarette excise tax had not been paid. The actual inventory is shown on the attached Form CG-55.1, *Inventory of Confiscated Cigarettes/Tobacco Products*, and grouped by lot as provided in section 1846(a) of the New York State Tax Law. These products are being offered for public sale to any interested New York State Cigarette Tax Stamping Agent and/or Registered Distributor of Tobacco Products.

For additional information contact: **NYS TAX DEPARTMENT
 OFFICE OF BUDGET AND MANAGEMENT ANALYSIS
 BUILDING 9 ROOM 234
 W A HARRIMAN CAMPUS
 ALBANY NY 12227
 (518) 457-0954**

To avoid any misunderstanding or rejection of bids, please read carefully all bidding restrictions and terms of this sale on the back of this form.

The NYS Tax Department reserves the right to reject any bid if:

- The information below is not supplied in full and signed.
- The bid is received in the NYS Tax Department, Office of Budget and Management Analysis, Building 9 Room 234, W A Harriman Campus, Albany NY 12227, after 2 p.m. EST Friday, June 5, 2009.
- The certified check, money order, or bank cashier's check for 10% of the total bid is not enclosed.
- The Bidder fails to pass a Tax Clearance Check or resolve any outstanding tax liabilities.

.....Cut here and return

Bidder's Declaration

Declaration: In submitting this offer, the undersigned declares, warrants, and agrees that he or she has carefully examined the terms of sale, the specifications and conditions of sale, has had an opportunity to examine the property to be sold and the conditions governing the removal of same and that, in signing this offer form, it is understood that the goods will be sold "as is," and that the seller makes no warranty of merchantability or fitness of any particular purpose. Noncollusive bidding certification (State Finance Law Section 139-d): By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief: (1) The prices in this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices, with any other bidder or with any competitor; (2) Unless otherwise required by law, the prices quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder, directly or indirectly, to any other bidder or to any competitor before completion of the selection process; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.			
Name		Title (if bid is made by a company)	
Address (if bid is made by a company, give company name and address)			
Sales tax registration number		NYS cigarette tax stamping agent registration number	
Signature		Telephone number ()	Date

Restrictions and Terms of Sales

Inspection

Inventory may be inspected at these times and days only:

 N/A

Inspection location: _____

Inspection will be restricted to eligible bidders; no others will be admitted. Arrangements for the inspection should be made by calling the Operations Support Bureau at (518) 292-7821.

Bid procedure

- Bid offers must be made using Form CG-55.2, *Offer Form*. No other types of offers will be accepted. Additional copies of Form CG-55.2 are available from the NYS Tax Department, Office of Budget and Management Analysis, Building 9 Room 234, W A Harriman Campus, Albany NY 12227.
- To complete Form CG-55.2, record each lot number you are interested in purchasing and your offer for this lot. Sign and date the form.
- Form CG-55.2 must be accompanied by a completed *Bidder's Declaration*, the cut-off portion of Form CG-55, *Restricted Sale of Confiscated Cigarettes/Tobacco Products*.
- A bid will not be considered for award nor will any award be made if the conditions of the noncollusive bidding certification have not been complied with; provided, however, that if in any case the bidder cannot make the foregoing certification, the bidder must so state and must furnish with the bid a signed statement that sets forth in detail the reasons therefore. If the above conditions have not been complied with, the bid will not be considered for award nor will any award be made unless the head of the purchasing unit of the state, public department, or agency to which the bid is made, or his or her designee, determines that such disclosure was not made for the purpose of restricting competition (section 139-d of the State Finance Law).
- Each offer must be accompanied by a certified check, money order, or bank cashier's check in the amount of 10% of the total bid, made payable to: **New York State Department of Taxation and Finance**. Deposits from unsuccessful bidders will be returned within 10 business days of the sale.
- A copy of your sales tax registration certificate must accompany this bid, if it is not currently on file. If applicable, a copy of your resale certificate must accompany your full payment of the balance due on any lots for which you are the successful bidder.
- The bid must be received before the deadline at the NYS Tax Department, Office of Budget and Management Analysis, Building 9 Room 234, W A Harriman Campus, Albany NY 12227. Bids received after the specified time and date will be rejected.
- The sale number must be printed clearly in the lower left-hand corner of the bid envelope, and your return address must appear in the upper left-hand corner of the envelope.

Rejection of offers

The Tax Department reserves the right to reject any and all offers, and to obtain clarification from vendors regarding bid packages. Incomplete forms and bid packages may be rejected.

Tax clearance

All outstanding tax liabilities, if any, against a successful Bidder in favor of the State of New York must be satisfied or a payment schedule for their speedy satisfaction must be established prior to the release of any auctioned goods.

Withdrawal

The Tax Department reserves the right to withdraw any item before the sale.

Liquidated damages

Failure of a successful bidder to accept the award, to make full payment to the Tax Department as specified in the award, and to remove the property within the specified period will result in the deposit check being retained by New York State as liquidated damages, not as a penalty.

Condition of property

All items are sold "as is," with no guarantee or warranty from New York State. No sale will be invalidated by reason of any fault in any item or by reason of any item being incorrectly described. New York State assumes no responsibility for material after it has been awarded to the successful bidder.

Method of payment

Upon notification of award from this office, the successful bidder(s) must, within 10 business days, make full payment of the balance due on lots of cigarettes and/or tobacco products by certified check, money order, or bank cashier's check, made payable to the **New York State Department of Taxation and Finance**.

Removal

Upon full payment of award, successful bidder(s) and/or their representatives will have 10 business days to remove the material. The bidder must arrange for the removal of the cigarettes and/or tobacco products by calling the Operations Support Bureau at (518) 292-7821. New York State will not package or arrange shipment of any cigarettes. Proper identification and signed written authorization will be required before release.

Tobacco products only:

The winning bidder is responsible for all Article 20 tobacco product tax due on the acquisition of tobacco products obtained at this auction for resale. The tobacco products tax is calculated based upon the "wholesale price" of the product. The "wholesale price" for product purchased at the auction is not necessarily the auction price, but the ordinary or usual "wholesale price" of such product as set forth in section 470.6 of the Tax Law. The auctioned product should be included on the appropriate *Distributor of Tobacco Products Tax Return* (Form MT-203) for the winning bidder. Any tobacco products tax due upon the purchase of tobacco products at this auction should be included with such return.

Note: The age of the cigarettes and the tobacco products may exceed the manufacturer's freshness code stamped on the product.



New York State Department of Taxation and Finance
Office of Budget and Management Analysis
Offer Form

CG-55.2
(4/04)

Sale number 09-11	Deadline for receiving bid *Amended 2pm EST 6/5/2009	Agency New York State Department of Taxation and Finance
Deposit requirement payable to <i>New York State Department of Taxation and Finance</i> 10% of total bid	Location of material to be sold Rotterdam Industrial Park Rotterdam, New York	
Condition of payment Within 10 business days of notification of award, full payment due by certified check, money order, or bank cashier's check.	Removal period Within 10 business days of receipt of full payment.	

The following is (my/our) offer for the purchase and removal of the property described below. This offer is made subject to the conditions for this sale and the terms contained on Form CG-55, *Restricted Sale of Confiscated Cigarettes/Tobacco Products*.

Lot number

Amount offered

Authorized signature	Title	Date
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Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C13	Philip Morris	Premium Cigarette Cartons	
		Marlboro	1155.0
		Virginia Slims	5.0
	Total Premium Cartons		1160.0
	Grand Total Cigarette Cartons C13		1160.0



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C32	Lorillard	Premium Cigarette Cartons	
		Newport	945.0
	Total Premium Cartons		945.0
Grand Total Cigarette Cartons C32			945.0



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C33	Lorillard	Premium Cigarette Cartons	
		Newport	1500.0
	Total Premium Cartons		1500.0
	Grand Total Cigarette Cartons C33		1500.0



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C35	Lorillard	Premium Cigarette Cartons	
		Newport	6360.0
	Total Premium Cartons		6360.0
	Grand Total Cigarette Cartons C35		6360.0



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C38	Lorillard	Premium Cigarette Cartons	
		Newport	1191.2
	Total Premium Cartons		1191.2
Grand Total Cigarette Cartons C38			1191.2



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C40	Lorillard	Premium Cigarettes Cartons	
		Newport	1203.0
	Total Premium Cartons		1203.0
Grand Total Cigarette Cartons C40			1203.0



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C41	Lorillard	Premium Cigarette Cartons	
		Newport	249.8
	Total Premium Cigarettes		249.8
		Generic Cigarette Cartons	
		Old Gold	4.0
	Total Generic Cigarettes		4.0
Grand Total Cigarette Cartons C41			253.8



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C42	Lorillard	Premium Cigarette Cartons	
		Newport	1440.0
	Total Premium Cartons		1440.0
	Grand Total Cigarette Cartons C42		1440.0



Inventory of Confiscated Cigarette/Tobacco Products

Sales no. 09-11

Lot no.	Manufacturer	Description	Amount
C54	RJ Reynolds	Premium Cigarette Cartons	
		Camel	615.0
		Salem	780.0
	Total Premium Cartons		1395.0
	Grand Total Cigarette Cartons C54		1395.0

