

PROPRIETARY ITEMS

Proprietary Items Overview

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

What is a Proprietary Item?

Proprietary Item: An Item specified within the bid package that can only be made by **one** particular manufacturer.

- *When are Proprietary Items used?* A consultant would typically deem an item Proprietary to match an existing condition, such as renovation or repair to a roof, or to a fire alarm system.
- Most items included in a Bid Package will be considered Non-Proprietary, as mandated by official City of New York Procurement Laws which permit maximum competition by requiring items to specify at least **three** different manufacturers that would be appropriate for the project, along with the phrase “or approved equal”.

PROPRIETARY ITEMS

1. Definition
2. **Procurement Rules**
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Official City of New York Procurement Policy Board Rules on Proprietary Items:

Section 2-05

SPECIFICATIONS.

(a) Policy. Specifications are used to obtain goods, services, and construction to fulfill the City's needs in a cost-effective manner, taking into account, to the extent practicable, the costs of ownership and operation, as well as costs of acquisition. Therefore, specifications shall:

(1) permit maximum practicable competition;

(2) describe clearly the City's requirements without favoritism toward a vendor or a vendor's good, service, or construction;

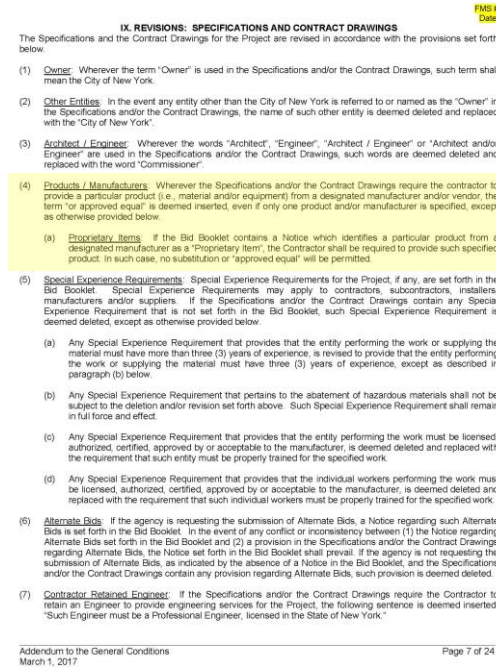
(3) to the extent practicable, be generic in nature and emphasize functional or performance criteria, while limiting design or other detailed physical descriptions to those necessary to meet the City's needs; and

(4) to the extent practicable, utilize accepted commercial standards, and limit unique requirements that would tend to favor a vendor or a vendor's good, service, or construction.

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Official DDC Language on Proprietary Items from the Addendum to the General Conditions:



NB: Unless an item is approved as 'Proprietary' by ACCO, no sole source manufacturers are allowed, even if they are noted as such in the specifications or drawings.

- (4) Products / Manufacturers: Wherever the Specifications and/or the Contract Drawings require the contractor to provide a particular product (i.e., material and/or equipment) from a designated manufacturer and/or vendor, the term "or approved equal" is deemed inserted, even if only one product and/or manufacturer is specified, except as otherwise provided below.
- (a) Proprietary Items: If the Bid Booklet contains a Notice which identifies a particular product from a designated manufacturer as a "Proprietary Item", the Contractor shall be required to provide such specified product. In such case, no substitution or "approved equal" will be permitted.

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. **Timeline**
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Q: When should I start to think about
Proprietary Items?

A: The earlier, the better.

*The Bid Packaging Unit is available to discuss your project
and answer your questions at any phase.*

PROPRIETARY ITEMS

- 1. Definition
- 2. Procurement Rules
- 3. **Timeline**
- 4. Bid Package Documents
- 5. Proprietary Justification
- 6. Approval Process
- 7. ACCO Approves
- 8. ACCO Does Not Approve
- 9. Finalize

Overview: Bid Package Timeline

*SD & DD Phases:	Invite to meetings only if needed
*50% CD:	CD kick off meeting (no BP review at 50% CD)
*100% CD (1):	AE review only (no BP review at initial 100% CD)
*Resubmit 100% CD (2):	First Bid Package review: detailed comments sent to consultant and DDC PM
*Resubmit 100% CD (3):	Second Bid Package review: check for compliance with previous comments, and check for all required approvals. If acceptable, BP will package for Design Completion & Law review

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. **Bid Package Documents**
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Required Bid Package Documents for Proprietary Items

- ✓ Proprietary Items Approval Memo (by DDC PM)
- ✓ Justification of Proprietary Items (by Consultant or Sponsor)
- ✓ Special Notice to Bidders Itemized List (by Consultant)

NYC Department of Design and Construction

BID PACKAGE CHECKLIST

Contract Type: ☐ City-Owned Property ☐ Non-City-Owned Property Contract Amount \$

PROJECT TITLE:			
DDC Project ID #	Program Unit:		
Street Address			
Borough	Zip	Date	
Project Manager	Ext.		
Sponsor Agency			
Prime Consultant			

REQUIRED FOR <u>ALL</u> BID PACKAGES:				
	DOCUMENT	by:	ELECTRONIC FORMAT	NOTES
1	Bid Package Submission Form	PM	PDF	<input type="checkbox"/>
2	Specifications	Consultant	PDF	<input type="checkbox"/>
3	Table of Contents	Consultant	Word	<input type="checkbox"/>
4	Addendum to the General Conditions	Consultant	Word	<input type="checkbox"/>
5	Cost Estimate	Consultant	Excel	<input type="checkbox"/>
6	MWBE Worksheet	PM	PDF	<input type="checkbox"/>
7	ACCOFLOW CSB Sheet w/ Pin #	PM	Word	<input type="checkbox"/>
8	Bid Disposition Form (signed original)	PM	Scanned PDF	<input type="checkbox"/>
9	APT E-Pin	BP	Email	<input type="checkbox"/>
10	Signoff of 100% CD Specifications and Drawings by AE or CM	PM	Email	<input type="checkbox"/>

PROJECT-BASED DOCUMENTS, NEEDED ONLY AS APPLICABLE:				
	DOCUMENT	by:	ELECTRONIC FORMAT	NOTES
11	Proprietary Items Approval Memo (signed original)	PM	Scanned PDF	<input type="checkbox"/>
11.1	Justification of Proprietary Items	Consultant	Scanned PDF	<input type="checkbox"/>
11.2	Proprietary List "Special Notice to Bidders"	Consultant	Word	<input type="checkbox"/>
12	PQL Approval Memo (signed original)	PM	Scanned PDF	<input type="checkbox"/>
13	Special Experience Requirements Approval Memo (signed original)	PM	Scanned PDF	<input type="checkbox"/>
13.1	SER Justification	Consultant	Scanned PDF	<input type="checkbox"/>
13.2	SER Bid Booklet Page	BP	Word	<input type="checkbox"/>
14	Bid Alternates Approval Memo (signed original)	PM	Scanned PDF	<input type="checkbox"/>
15	Unit Price Schedule	Consultant	Excel	<input type="checkbox"/>
16	Commissioning Specifications	PM	Word or PDF	<input type="checkbox"/>
17	Asbestos Specifications (if demolition in scope)	PM	PDF	<input type="checkbox"/>
18	Geotechnical Report	Consultant	PDF	<input type="checkbox"/>
19	Other Contract Documents (Federal, State, etc.)	PM	PDF	<input type="checkbox"/>
20	Feasibility Study & PLA Approval (for New Construction)	PM	Email	<input type="checkbox"/>

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
- 5. Proprietary Justification**
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

ACCEPTABLE Justification for Proprietary Items:

- ✓ Upgrades to an existing system such as a **Fire Alarm, BMS system**, etc.
- ✓ Modification to a **roof** that is under warranty
Note: Seek Proprietary Approval for the roof manufacturer, and Special Experience for the roof installer
- ✓ Manufacturers required by sponsor agencies

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
- 5. Proprietary Justification**
6. Approval Process
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

UNACCEPTABLE Justification for Proprietary Items:

- x “Preferred” Product
- x Consultant “likes the look”
- x Consultant has not looked into other manufacturers
- x Request for Specific Installer (Proprietary is for materials only)

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. **Approval Process**
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Approval Process for Proprietary Items:

1. Consultant completes
Special Notice to Bidders



2. Consultant writes up
Justification of Proprietary Items



**3. Project Manager brings to Bid Packaging for
Review prior to seeking approval**



4. Project Manager composes
Proprietary Items **Approval Memo**



Proprietary Item is Approved or Not Approved

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
- 6. Approval Process**
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Special Notice to Bidders

Complete Itemized List (page 2a) stating what the product is, where it is referenced in the specifications, and the manufacturer.

Special Notice to Bidders – Proprietary Items

A. General: A proprietary item required for the Project is specified below. The Contractor is required to provide and install such proprietary item. The Contractor must provide the specified item from the designated manufacturer. Substitutions are not permissible and will not be approved. More detailed information regarding the item is set forth in the Specifications. Such information includes item description, as well as requirements for installation and related materials.

B. Bid: In preparing its lump sum bid, the Contractor must include in its bid any costs for the purchase of the proprietary item, as well as any costs above and beyond the purchase price, including, without limitation, any costs for transportation, including delivery, shipping or special handling costs, any costs for installation, and any costs for related materials, as well as any mark-up for the Contractor's overhead and profit.

C. Required Proprietary Item(s):

CONTRACT NO. 1:

1. Proprietary Item:	<u>Name and Model #</u>
Specification Section:	<u>Section #</u>
Manufacturer:	<u>Brand Name</u>

Add additional items as applicable...

PROPRIETARY ITEMS

- 1. Definition
- 2. Procurement Rules
- 3. Timeline
- 4. Bid Package Documents
- 5. Proprietary Justification
- 6. Approval Process
- 7. ACCO Approves
- 8. ACCO Does Not Approve
- 9. Finalize

Justification

Provide justification from sponsor agency or consultant stating why the proprietary item is required

GRIMSHAW

September 27, 2017

Gregory Johnson
Project Manager
NYC Department of Design & Construction
30-30 Thomson Avenue 4th Floor, Long Island City, NY 11101

RE: Contract#: 20121438173 FMS ID: CRO-AGS
Croton Above Ground Structure & Landscaping

Dear Mr. Johnson:

We are herewith requesting your approval of these recommended proprietary items at the Croton Water Filtration Plant Above Ground DPR facilities as follows:

1) Architectural Membrane: Saints-Gobain

2) Exposed Aggregate in Concrete Paving: The North Carolina Granite Corp

3) Aggregate Overlay Over Asphalt Paving: The North Carolina Granite Corp

4) Flagpoles: Pole-Tech Inc.

5) Irrigation Pump System: Toro Lynx System

The first three proprietary items above aim to exactly match the materials specified on the previous phase of the Croton WTP constructed for the NYC Department of Environmental Protection. The fourth item above is included per NYCDPR's direction, this is the only manufacturer deemed acceptable by the Dept. of Parks & Recreation for flag poles. The last item above, irrigation pump station & controls, is required to communicate with the existing Moshulu Golf Course irrigation system and is the only system available which will be compatible with the existing system.

If any of these items are not able to be used on the project, the consistency of materials intended to match those used in Van Courtland Park and the adjacent Croton Water Treatment Plant Structures will not be achieved. Furthermore, if the irrigation system specified for the project is not compatible with the existing golf course system, the entire golf course system will need to be replaced, causing an additional monetary burden on NYC DPR and their concessionaire.

Sincerely,



Eric Johnson

Associate, New York Office

For and on behalf of Grimshaw Architects PC
Federal identification number 02-0622328

New York
637 W 41st Street
New York
10001
USA
T +1 646 293 3600
F +1 646 293 3510
info@grimshaw-architects.com
www.grimshaw-architects.com

London

Doha

Melbourne

Sydney

Partners
Jolyon Brewis
Keith Brewis
Vincent Chang
Andrew Correse
Sir Nicholas Grimshaw CBE
Michael Holmes
William Morgan
Mark Pussner
Ewan Jones
Kristian Lees
Declan McCafferty
Neill McClements
Mark Middleton
Juan Peral
Nasser Sidor
Neil Stone
Andrew Thomas
Andrew Whalley

Grimshaw Architects PC
a Delaware limited liability company
*Division of NYUSA Organization
*Part of a member of a UK limited liability partnership

Page 1 of 1

PROPRIETARY ITEMS

- 1. Definition
- 2. Procurement Rules
- 3. Timeline
- 4. Bid Package Documents
- 5. Proprietary Justification
- 6. Approval Process
- 7. ACCO Approves
- 8. ACCO Does Not Approve
- 9. Finalize

Consultant or sponsor letterhead

List requested items

Justification of why the items are required

GRIMSHAW

September 27, 2017

Gregory Johnson
Project Manager
NYC Department of Design & Construction
30-30 Thomson Avenue 4th Floor, Long Island City, NY 11101

RE: Contract#: 20121438173 FMS ID: CRO-AGS
Croton Above Ground Structure & Landscaping

Dear Mr. Johnson:

We are herewith requesting your approval of these recommended proprietary items at the Croton Water Filtration Plant Above Ground DPR facilities as follows:

1) Architectural Membrane: Saints-Gobain

2) Exposed Aggregate in Concrete Paving: The North Carolina Granite Corp

3) Aggregate Overlay Over Asphalt Paving: The North Carolina Granite Corp

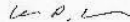
4) Flagpoles: Pole-Tech Inc.

5) Irrigation Pump System: Toro Lynx System

The first three proprietary items above aim to exactly match the materials specified on the previous phase of the Croton WTP constructed for the NYC Department of Environmental Protection. The fourth item above is included per NYCDPR's direction, this is the only manufacturer deemed acceptable by the Dept. of Parks & Recreation for flag poles. The last item above, irrigation pump station & controls, is required to communicate with the existing Moshulu Golf Course irrigation system and is the only system available which will be compatible with the existing system.

If any of these items are not able to be used on the project, the consistency of materials intended to match those used in Van Courtland Park and the adjacent Croton Water Treatment Plant Structures will not be achieved. Furthermore, if the irrigation system specified for the project is not compatible with the existing golf course system, the entire golf course system will need to be replaced, causing an additional monetary burden on NYC DPR and their concessionaire.

Sincerely,



Eric Johnson
Associate, New York Office

For and on behalf of Grimshaw Architects PC
Federal identification number 02-0622328

New York
637 W 41st Street
New York
10001
USA
T +1 646 293 3600
F +1 646 293 3510
info@grimshaw-architects.com
www.grimshaw-architects.com

London
Doha
Melbourne
Sydney

Partners
Jolyon Brewis
Keith Brewis
Vincent Chang
Andrew Correse
Sir Nicholas Grimshaw CBE
Michael Holmes
William Morgan
Mark Pussner
Ewan Jones
Kristian Lees
Declan McCafferty
Neill McClements
Mark Middleton
Juan Peral
Nasser Sidor
Neil Stone
Andrew Thomas
Andrew Whalley

Grimshaw Architects PC
a Delaware limited liability company
*Division of NYUSA Organization
*Part of a member of a UK limited liability partnership

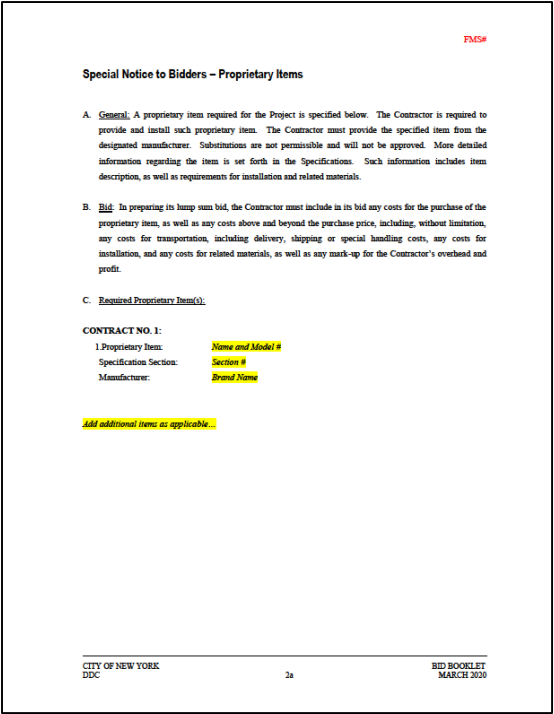
Page 1 of 1

PROPRIETARY ITEMS

- 1. Definition
- 2. Procurement Rules
- 3. Timeline
- 4. Bid Package Documents
- 5. Proprietary Justification
- 6. Approval Process
- 7. ACCO Approves
- 8. ACCO Does Not Approve
- 9. Finalize

Bring to Bid Packaging for Review

Prior to seeking approval from ACCO, bring the Special Notice to Bidders Itemized List and Justification to the Bid Package Unit to ensure that the proper format and procedure are being adhered to.



PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
- 6. Approval Process**
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

Approval Memo

Compose an Approval Memo for ACCO to approve.

MEMO

DATE: October 13, 2017
TO: Charlette Hamangian, ACCO
FROM: Gregory Johnson, Sr. Project Manager
Public Buildings / DEP Program Unit
SUBJECT: Project: CRO-AGS, Croton Above Grade Structure and Landscaping
Proprietary Items

Attached for your review are the documents to support the request for proprietary approval for the above project work items. The Bid Booklet Proprietary form is also included.

The project requires these items to be installed because the main the objectives is to match the materials specified on the previous phase of the Croton WTP constructed for the NYC Department of Environmental Protection. These items specified will provide a uniformed look and consistency between the previously completed Croton projects.

The total cost for proprietary items will be no more than \$443,423.00 of an estimated \$60,452,111.00 construction cost. This is 0.73% of the estimated construction cost for this project.

For your reference, attached is a list of proprietary items with a brief description and an approximate allowance for each of the items under this project.

If you require further information regarding this project, please contact me at (718) 391-1678.


Charlette Hamangian, ACCO

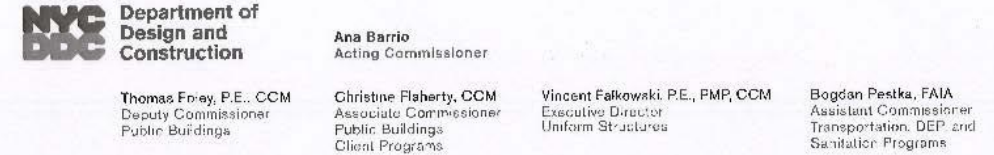
10/13/17
Date

cc: B. Pestka, Asst. Commissioner; G. Brue, Program Director

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. **Approval Process**
7. ACCO Approves
8. ACCO Does Not Approve
9. Finalize

DDC Program Unit
letterhead



MEMO

DATE: October 13, 2017
TO: Charlette Hamangian, ACCO
FROM: Gregory Johnson, Sr. Project Manager
Public Buildings / DEP Program Unit
SUBJECT: Project: CRO-AGS, Croton Above Grade Structure and Landscaping
Proprietary Items

Attached for your review are the documents to support the request for proprietary approval for the above project work items. The Bid Booklet Proprietary form is also included.

Summarize Proprietary
Scope of Work



The project requires these items to be installed because the main the objectives is to match the materials specified on the previous phase of the Croton WTP constructed for the NYC Department of Environmental Protection. These items specified will provide a uniformed look and consistency between the previously completed Croton projects.

Cost of Proprietary vs
Cost of Project



The total cost for proprietary items will be no more than \$443,423.00 of an estimated \$60,452,111.00 construction cost. This is 0.73% of the estimated construction cost for this project.

For your reference, attached is a list of proprietary items with a brief description and an approximate allowance for each of the items under this project.

If you require further information regarding this project, please contact me at (718) 391-1678.

Nicholas Mendoza,
ACCO




Charlette Hamangian, ACCO
Date 10/13/17

cc: B. Pestka, Asst. Commissioner; G. Brue, Program Director

**MY PROPRIETARY HAS BEEN
APPROVED BY ACCO. NOW WHAT?**

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
- 7. ACCO Approves**
8. ACCO Does Not Approve
9. Finalize

Specifications

List only one manufacturer with the phrase ‘no substitutions’ for that product only.

Delete additional manufacturers and the term ‘or approved equal’ for that product only.

Delete any reference to ‘Basis of Design’ for that product only.

Often, a single specification section will include multiple items.

Ensure that each Proprietary Item within a section has only one manufacturer, and each non-proprietary item has 3 manufacturers and the phrase, ‘or approved equal’.

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
- 7. ACCO Approves**
8. ACCO Does Not Approve
9. Finalize

Cost Estimate

Verify that proprietary items are listed in the cost estimate correctly:

Proprietary items must be included in the same corresponding section as noted in the itemized cost list (page 2a).

Proprietary Items' total material cost in estimate must match the amount approved by ACCO.

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
- 7. ACCO Approves**
8. ACCO Does Not Approve
9. Finalize

Review and Finalize Proprietary Items

Overall, everything must correlate: Proprietary Approval, Specifications, and the Cost Estimate.

Proprietary Items may be required for your project based on your sponsor's needs. They are most often used to match an existing condition.

The use of Proprietary Items within a Bid Package requires approval from ACCO prior to Design Completion.

MY PROPRIETARY IS **NOT**
APPROVED. NOW WHAT?

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. **ACCO Does Not Approve**
9. Finalize

Adjust Number of Manufacturers

All non-proprietary items must list at least three manufacturers, along with the phrase “or approved equal”.

If one manufacturer is listed > add at least 2 more, and the phrase, “or approved equal”

If two are listed > add at least 1 more, and the phrase, “or approved equal”

If three are listed > add the phrase, “or approved equal”

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. **ACCO Does Not Approve**
9. Finalize

Revise 'Preferred' to 'Basis of Design'

Listing one manufacturer as 'Preferred' is not acceptable. Change 'Preferred' to '**Basis of Design**' to communicate preference to bidders.

Format must include: "**Basis of Design**", plus at least two other manufacturers' **names, model numbers** and/or **specific performance requirements**.

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. **ACCO Does Not Approve**
9. Finalize

Specifications for Minor Items

Minor (small, inexpensive) items are just as important as major building components.

Ensure every brand of drywall screw, tape, etc. have at least **3 Manufacturers + 'or approved equal'**.

PROPRIETARY ITEMS

1. Definition
2. Procurement Rules
3. Timeline
4. Bid Package Documents
5. Proprietary Justification
6. Approval Process
7. ACCO Approves
8. ACCO Does Not
Approve
- 9. Finalize**

KEY TAKE AWAYS

Proprietary Items may be required for your project based on your sponsor's needs. They are most often used to match an existing condition.

The use of Proprietary Items within a Bid Package requires approval from ACCO prior to Design Completion.

Seek out Bid Package Unit for assistance at any point in project's timeline.

QUESTIONS?

Contact:

Sarah Shelley-Zomick
x1685, shelleysa@ddc.nyc.gov

Kathy Holmes
x1453, holmeska@ddc.nyc.gov

Melissa Cato
x1187, catome@ddc.nyc.gov

Richard Jones
x1417, jonesri@ddc.nyc.gov