

New York State Department of Agriculture and Markets

REQUEST FOR PROPOSALS

ATM MACHINE PROVISION, OPERATION AND SERVICE

New York State Fairgrounds

The New York State Department of Agriculture and Markets (Department) operates the New York State Fairgrounds year-round and presents the annual New York State Fair at the State Fairgrounds in Syracuse, New York for a twelve day period ending on Labor Day each calendar year.

The purpose of this request is to retain a federally or state regulated financial institution to provide, install, operate, maintain and service automatic teller machines (ATM) at various locations on the New York State Fairgrounds, Town of Geddes, Onondaga County (Syracuse) New York.

Proposals must be received in hand by the Department no later than **3:00 pm** local time on June 30, 2011. Proposals shall be addressed to:

Lucy Roberson, Director
Fiscal Management
New York State Department of
Agriculture and Markets
10B Airline Drive
Albany, New York 12235

Submit an original and one (1) copy of your proposal. Proposals may not be submitted electronically, or by fax. Inquiries about this request shall be directed to Emma Graham, in writing at the above address, or via email to emma.graham@agmkt.state.ny.us, and received no later than June 21, 2011. No telephone inquiries will be accepted. All questions and answers will be posted on the Department's website, www.agmkt.state.ny.us in the "Funding Opportunities" section. Answers will be posted as quickly as possible, but no later than June 23, 2011. The questions and answers, when posted, are part of this invitation.

Addenda to Request for Proposals

Any revisions to this request will be posted on the Department's website, www.agmkt.state.ny.us under "Funding Opportunities". All proposers are responsible for keeping informed of any revisions to this invitation.

Proposal Schedule

Request Issued – June 9, 2011
Last Date for Inquiries – June 21, 2011
Responses to Inquiries – June 23, 2011
Proposals Due – June 30, 2011
Selection within 30 days

Scope of Services

The selected proposer shall provide, install, operate, maintain and service, and, upon expiration of the contract, remove, ATMs on the New York State Fairgrounds.

Locations

A. Year Round Location

One (1) ATM shall be located adjacent to Gate 1 – Box Office.

B. April – October Location

One (1) ATM shall be located in the Coliseum.

C. Annual State Fair Locations

The annual State Fair runs for a twelve (12) day period ending on Labor Day of each calendar year. These ATM's shall be installed at least the Monday before the opening day of the Fair during each calendar year and removed no earlier than 1 day after the closing day of the Fair during each calendar year.

Approximately ten to fifteen (10-15) ATMs shall be located at locations to be determined by the selected provider and the Department.

During the past four years attendance at the annual State Fair has averaged 958,847 attendees. ATM usage during that same period has been an estimated average of 22,782 transactions during each State Fair, with the ATM provider realizing an estimated average gross revenue of \$59,804.00. The Department makes no representation that these figures, except for attendance, are accurate and provides the figures for your information only.

D. Event Locations

The selected provider may locate temporarily such ATMs as may be agreed upon by the selected provider and the Department during other events held at the Fairgrounds. A list of those events, the event location and estimated event attendance is attached to this request. The Department makes no representation

that the attendance figures for each event are accurate, rather those figures are the Department's "best estimate" of attendance at each event. The attendance figures are provided for informational purposes only. There may be events added or discontinued in the future.

ATMs – Units, Installation, Maintenance, Repair, Reports

Each ATM to be provided and each ATM should replacement be necessary, shall:

- be installed three days prior to event;
- bear the seal of approval from the Underwriters Laboratory;
- be compliant with the American With Disabilities Act and the Human Rights Law of the State of New York;
- have on the ATM face operating instructions and a toll free telephone number to report malfunction;
- provide each customer with a printed receipt of the customer's transaction(s);
- include a video camera to record each transaction and retain video for a period of thirty (30) days.

The selected proposer shall provide a monthly report to the Department which shall show the number of transactions per day for each ATM; the type of transaction; the fee charged for each transaction; the date and time any ATM became unavailable due to a malfunction; the date and time a malfunctioning ATM was restored to service; the date and time any ATM was fully depleted of cash and the date and time that ATM was restored to service.

Department Provided

The Department will provide electrical service and telephone service to each ATM location and will pay all service charges.

Term

The contract will be for a Term of three (3) years beginning on August 1, 2011 and ending on July 31, 2014.

Proposer Minimum Qualifications

To provide ATM customers with the maximum protection afforded by federal and state law and regulations, proposals will only be accepted from banking, financial or other

institutions which are subject to regulation by the United States Treasury's Office of the Comptroller of Currency, the Federal Reserve System's Bureau of Consumer Financial Protection or the New York State Banking Department.

Proposal Requirements and Evaluation

A. Technical

Your technical proposal will consist of your responses to the six inquiries set out below and reproduced on the "Proposal Submission Sheet" (attached) which you must complete, sign and submit. Each response is worth a total of six (6) points, for a total of thirty-six (36) points.

1. Where is the office located from which you will provide support for the ATM?
2. Will the support be provided by you, or through a supplier, subcontractor or agent?
3. What would be your anticipated standard response time to repair a malfunctioning ATM? Do you have spare ATM's?
4. What would be your anticipated response time to replenish cash if an ATM is fully depleted?
5. What is the schedule you would follow to insure all ATMs are functioning properly and are clean?
6. Are you able to resolve a malfunction within two hours? If not, what is your process to escalate your response?

B. License Fee

Your license fee will consist of two parts, each worth thirty two (32) points.

Part I of your license fee is the amount you will charge the customer for each transaction at each ATM. The **lowest** customer charge will receive the maximum points.

Part II of your license fee is the amount you will pay to the Department for each customer transaction at each ATM. The **highest** fee will receive the maximum points.

Insurance

The selected proposer shall secure from a company licensed to do business in New York State public liability insurance in the amount of \$1,000,000.00 per occurrence single limit bodily injury and property damage. The New York State Department of Agriculture and Markets must be named as additional insured. The certificate of insurance must be provided to the Department within five (5) business days from notification of award.

Reservation of Rights

The Department reserves the right to:

- Reject any or all proposals received with respect to this request;
- Decline to make an award from this request;
- Require clarification from any proposer to assure a full understanding of the responsiveness to the requirements of the request;
- Waive or modify minor irregularities in proposals received;
- Request from a proposer additional information deemed necessary to more fully evaluate its proposal. Proposers will have three (3) business days to respond to the request;
- Amend this request after its release, with appropriate written notice posted on the Department's website, and;
- Negotiate with any or all proposers within the request requirements, in the best interest of New York State.

Notification of Award

The Department will notify the selected proposer verbally, followed by a written confirmation. Unsuccessful proposers will be notified in writing by the Department within ten business days after the award.

Debriefing – Protest

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful proposer has the right to a debriefing. An unsuccessful proposer must request a debriefing within thirty (30) days from the date of the notification of the Award. To request a debriefing an unsuccessful proposer should contact Emma Graham, Division of Fiscal Management, in writing or via e-mail at emma.graham@agmkt.state.ny.us.

An unsuccessful proposer may protest the award by filing a protest, in writing, with the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, New York 12236.

New York Law

The provisions of New York law shall apply to the contract and to all claims, actions and other proceedings arising out of the contract.

Approvals

The contract shall be subject to the approval of the Attorney General of the State of New York and the Comptroller of the State of New York.

NYS Standard Vendor Responsibility Questionnaire

The proposer shall fully and accurately complete the Vendor Responsibility Questionnaire, (hereinafter the "Questionnaire"). The proposer acknowledges that the Department's execution of the Contract will be contingent upon the Department's determination that the proposer is responsible, and that the Department will be relying upon the proposer's responses to the Questionnaire in making that determination. If it is found by the Department that the proposer's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Department may terminate the contract by providing ten (10) days written notification to the contractor. In no case shall such termination of the contract by the Department be deemed a breach thereof, nor shall the Department be liable for any damages for lost profits or otherwise, which may be sustained by the contractor as a result of such termination.

NOTE: Proposers are invited to file the 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 available at www.osc.state.ny.us/vendrep or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email athelpdesk@osc.state.ny.us.

Appendix A

Appendix A is posted on the website of the New York State Office of General Services at www.ogs.state.ny.us/procurecounc/PDFdoc/appendixa.pdf, and contains standard clauses that are required in all State contracts. Appendix A will be a part of any contract awarded and the successful proposer will be responsible for complying with the terms and conditions contained therein.

Certification Pursuant to NYS Tax Law Section 5-A

Pursuant to Tax Law Section 5-a, you are required to certify to the Tax Department that you are registered to collect New York State and local sales and compensating use taxes, if you made sales of tangible personal property, delivered by any means, to locations within New York State or you provided taxable services, having a cumulative value in excess of \$300,000 measured over a specified period. In addition, you must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. You must also certify to the procuring state agency that affiliates and subcontractors have filed a correct and complete certification with the Tax Department. The successful proposer will be required to complete and sign, under penalty of perjury, the Contractor Certification Form ST-220-TD and the Contractor Certification to Covered Agency Form ST-220-CA. The Contractor Certification Forms are available from the Department of Tax and Finance web site at: http://www.tax.state.ny.us/forms/sales_cur_forms.htm#Other%20Sales%20Tax%20Forms.

The successful proposer will be required to complete and submit the Contractor Certification Forms within three (3) business days from the date of the request. Failure to respond timely may render a proposer non-responsive and non-responsible. Proposers shall take the necessary steps to provide properly certified forms, within a timely manner, to ensure compliance with the law. You may call the Tax Department at 1-200-698-2931 for all questions regarding Tax Law §5-a, and relating to a company's registration status with the Tax Department. For additional information and frequently asked questions, please refer to the Department of Tax and Finance web site: http://www.tax.state.ny.us/pdf/publications/sales/pub223_507.pdf.

Minority & Women Owned Business Equal Opportunities & Goals

See Clause 12, Equal Employment Opportunities for Minorities and Women, in Appendix A. For this contract the Department and the Division have established the following goals:

- Minority business enterprises 1%
- Women owned business enterprises 1%

MacBride Fair Employment Principles

Chapter 807 of the Laws of 1992 prohibits a State department from contracting for the supply of goods and services or construction with any contractor who does not agree to stipulate that it either has no business operations in Northern Ireland, or if it does have such business operations, it shall take lawful steps in good faith to conduct such operations in accordance with the MacBride Fair Employment Principles, if there is another contractor who will execute such stipulation and provide the goods and services or construction of comparable quality at a comparable price. Proposers must sign the

related certification of non-discrimination at <http://www.ogs.state.ny.us/procurecouncil/PDFdoc/nondiscrimination.pdf>.

Summary of Department’s Policy Regarding State Finance Law Sections 139-j & 139-k

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Department of Agriculture and Markets and an offeror/proposer during the procurement process. (See Attachment 8 -- “Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence”). An offeror/proposer is restricted from making contacts from the earliest notice of intent to solicit proposals/proposals through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, are identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offeror/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period, the offeror/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found in the Department’s Guidelines, which are attached, and on the Office of General Services Website at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

The Department has designated the following staff members to receive contacts pertaining to this request:

Emma Graham
Division of Fiscal Management
Telephone: (518) 457-0864
Fax: (518) 485-7750
E-mail: emma.graham@agmkt.state.ny.us

Judy Giovannetti
Division of Fiscal Management
Telephone: (518) 457-6172
Fax: (518) 485-7750
E-mail: judy.giovannetti@agmkt.state.ny.us

Non-Collusive Bidding Certification

New York State requires that you certify under the penalty of perjury that your proposal was arrived at independently. If you are the successful proposer the certification will be provided to you.

Contract Termination

This provision authorizes the Department to terminate its contract with you if any of the information you provided in the documents making up the Standard Contract Provisions is intentionally incomplete or intentionally false. If contract termination is proposed, you will be notified and given an opportunity to explain why you believe the contract should not be terminated.

Workers' Compensation & Disability Benefits Insurance

Pursuant to sections 57 and 220 of the State's Workers' Compensation Law, no State agency may enter into a contract with a vendor until the vendor produces proof that it has secured Workers' Compensation and Disability Benefits Insurance. Proposers must include, as part of their proposal, a C-105.2 form and a DB-120.1 form completed and certified by their insurance carrier, attesting to the existence of proper insurance coverage. The insurance coverage must be under the company name, federal employer identification number and policy number issued to the proposer. New York State does not accept ACORD forms. Please see the Workers' Compensation Board's website at www.wcb.state.ny.us for more information.

Restrictions on Communications with Department of Agriculture and Markets and Division of the State Fair Staff

Proposers shall make no unsolicited contact with any Department or Division personnel regarding this proposal, except that proposers may contact Emma Graham in writing or by email at emma.graham@agmkt.state.ny.us.

Cost Liability

The State of New York, the Department and the Division assume no responsibility or liability for costs incurred by the proposers in preparing and submitting their proposals in response to this request.

Freedom of Information

The selected proposer's proposal and any contract resulting from this request are subject to the provisions of New York's Freedom of Information Law, Public Officers Law, Article 6.

New York State Department of
Agriculture and Markets
10B Airline Drive
Albany, New York 12235

New York State Department of Agriculture and Markets

PROPOSAL SUBMISSION SHEET

ATM MACHINE PROVISION, OPERATION AND SERVICE

New York State Fairgrounds

Proposer Minimum Qualifications

To provide ATM customers with the maximum protection afforded by federal and state law and regulations, proposals will only be accepted from banking, financial or other institutions which are subject to regulation by the United States Treasury's Office of the Comptroller of Currency, the Federal Reserve System's Bureau of Consumer Financial Protection or the New York State Banking Department.

Provide documentation showing that you are subject to regulation by the United States Treasury's Office of the Comptroller of the Currency, or the Federal Reserve System's Bureau of Consumer Financial Protection or the New York State Banking Department.

Proposal

A. Technical

Provide your responses to the six inquiries set out below, sign as indicated and submit. Each response is worth a total of six (6) points, for a total of thirty-six (36) points.

1. Where is the office located from which you will provide support for the ATM?

Date _____

Proposer Name _____

Authorized Representative Signature _____

Print Name _____

2. Will the support be provided by you, or through a supplier, subcontractor or agent?

3. What would be your anticipated standard response time to repair a malfunctioning ATM? Do you have spare ATM's?

4. What would be your anticipated response time to replenish cash if an ATM is fully depleted?

5. What is the schedule you would follow to insure all ATMs are functioning properly and are clean?

Date _____

Proposer Name _____

Authorized Representative Signature _____

Print Name _____

6. Are you able to resolve a malfunction within two hours? If not, what is your process to escalate your response?

B. License Fee

Your license fee will consist of two parts, each worth thirty two (32) points.

Part I of your license fee is the amount you will charge the customer for each transaction at each ATM. The **lowest** customer charge will receive the maximum points.

Customer charge per transaction _____.

Part II of your license fee is the amount you will pay to the Department for each customer transaction at each ATM. The **highest** fee will receive the maximum points.

Payment to Department per transaction _____.

Date _____

Proposer Name _____

Authorized Representative Signature _____

Print Name _____