

REQUEST FOR PROPOSALS

ENTERTAINMENT PRODUCTION SERVICES

New York State Department of Agriculture and Markets

This Request for Proposal (RFP) is issued by the Department of Agriculture and Markets of the State of New York (Department) seeking proposals for entertainment production services for events and shows held at the grandstand located on the New York State Fairgrounds (Onondaga County), Syracuse, New York.

Proposals must be received in hand by the Department no later than **3:00pm** local time on **Monday, March 18, 2010**. Proposals must be addressed to:

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

Submit an original and five (5) copies of your proposal in a sealed envelope or package. Mark "Entertainment Production Services" on your proposal. Proposals may not be submitted electronically or by fax. Your proposal must be in three parts, Part 1 marked "Minimum Qualifications", Part 2 marked "Technical Proposal" and Part 3 marked "Fee".

Inquiries about this RFP 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 March 8, 2010. 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 March 10, 2010. The questions and answers, when posted, are part of this RFP.

Revision/Addenda to the Request for Proposal

If this RFP is revised or modified, the revision or modification 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 RFP.

Schedule

The Department reserves the right to change any of the below scheduled event dates. Any changes will be posted on the Department's website, www.agmkt.state.ny.us under "Funding Opportunities". Proposers are responsible for keeping informed on any changes in the schedule:

Event Dates

RFP Issued – February 25, 2010
Last Date for Inquiries – March 8, 2010
Responses to Inquiries – March 10, 2010
Proposals Due – March 18, 2010
Oral Presentation – March 25, 2010
at the New York State Fairgrounds, Syracuse, New York

Selection Within 30 Days

Minimum Qualifications

You must meet the following minimum qualifications in order to submit a proposal:

1. You must be presently in the business of providing entertainment production services at a venue, or venues, with a minimum seating capacity of seven thousand five hundred (7,500) persons.
2. You must have a minimum of five (5) consecutive years of documentable and verifiable experience in providing entertainment production services which must include the provision of such services in the period 2005-2009.
3. Entertainment production services must be a primary focus of your business operation.

Objective

The objective of the RFP is to select a person, partnership or corporation to provide production services, as described below, for shows and events held during the annual New York State Fair at the grandstand on the New York State Fairgrounds. Services will be provided for a thirty one (31) month period, covering the 2010, 2011 and 2012 New York State Fair. The dates of each respective State Fair are August 26 – September 6, 2010; August 25 – September 5, 2011 and August 23 – September 3, 2012.

Premises

The existing grandstand has a seating capacity of 14,000 to 17,000 people depending upon the seating configuration for the event. The grandstand has concession facilities within the Grandstand, operated by a concessionaire under a contract with the Department, and at the racetrack infield, operated by the Department.

Shows are presented on a temporary stage, provided by the Department, erected in front of the grandstand.

During the 2009 State Fair, the grandstand presented 9 entertainment events. A list of those events, together with the total attendance at each, is included as part of this RFP.

Grandstand Services Provided By Department

The Department will provide, either directly or through contract, the following services to the grandstand: ticketing, ticket takers and ushers, cleaning and trash removal, restroom maintenance and supplies, electric, water and sewer service, food and beverage service, novelty and souvenir concessions, security, advertising, publicity and promotion, acts and performers, event and show booking, sound and light systems and video displays, public address equipment, emergency medical services, stage and on-site office space, telephone, copying and fax services for the selected proposer.

Proposer Provided Services

During the Term of the contract, the entertainment event production service provider shall:

1. Coordinate stage erection and dismantling with the stage provider's on-site representative.
2. Provide stagehands sufficient to unload, assemble, set, maintain, repair, operate, disassemble and re-load all show equipment. You will be reimbursed only for the direct labor cost of stagehands; your charge for stagehand provision and supervision shall be included in your fee.
3. Provide liaison services between the Department, agents for events and shows, and event and show management to coordinate the presentation of events and shows at the grandstand, including, but not limited to, advancing the show, show load in/load out scheduling, sound and light set-up and special effects requirements and stagehand supervision before, during and after shows.
4. Provide technical assistance to the Department concerning grandstand entertainment events, including information about current industry requirements

and standards relating to staging, sound, lights, video and other entertainment production related services.

5. Maintain a management representative on-site throughout the annual New York State Fair and such other personnel necessary to provide the required services.

Production Fee

The Department will pay to the entertainment event production service provider fifty percent (50%) of one-third of the production fee on or before the sixth day of each New York State Fair and fifty percent (50%) of one-third of the production fee on or before the day immediately after the close of each New York State Fair held during the Term of this Agreement.

The production fee you propose shall include the provisions of all your services for entertainment events presented at the grandstand during the New York State Fair to be held in 2010, 2011 and 2012.

Term

The Term of the Agreement will be thirty one (31) months, beginning on June 1, 2010 and ending on December 31, 2012.

Proposal Contents

All proposals (original and five copies) shall be submitted in one sealed envelope or package clearly marked "Entertainment Production Services." Inside the sealed envelope or package submit separate sealed envelopes or packages marked "Minimum Qualifications", "Technical Proposal" and "Fee".

A. In the envelope marked "Minimum Qualifications" provide documentation or other information showing that: (i) you are presently in the business of providing entertainment production services at a venue or venues with a minimum seating capacity of seven thousand five hundred (7,500) persons; (ii) you have a minimum of five (5) consecutive years experience in providing entertainment production services, and (iii) that entertainment production service is one of your primary businesses.

B. In the envelope marked "Technical Proposal" submit:

1. A list of all shows, events and venues for and where you provided entertainment production services during the period January 1, 2005 to December 31, 2009 including: (a) for shows and events, the name(s) of the shows and events; event and show principals, business managers, and agents, including the name(s), address(es) and telephone numbers of contact persons; the venue name and venue

capacity of the show/event and venue location and show/event attendance and, (b) for venues, the venue name, address, telephone number and name of the venue manager, and a detailed description of the services you provide or provided. If the venue is governmentally owned or operated, you must provide a copy of the current agreement between you and the venue owner/operator.

2. A minimum of three (3) verifiable references, which shall include your principal banking or financial organization, together with the name and telephone number of a contact person at each reference and written authorization from you for release of your financial information. If obtained by the Department, this information will be maintained as confidential information, not copied and will be returned to you.
3. A comprehensive written statement explaining the services which you will provide in response to this Request.
4. A written statement of your experience in providing entertainment event production services detailed as follows:

A. Management

The name, business address and telephone number, and physical business location of all management personnel who will be responsible for the provision of entertainment event production services, an organization chart showing chains of responsibility in your organization, and a current resume for each identified person. You must also identify the manager, or managers, who will provide on-site services during the annual New York State Fair and provide a current copy of their resumes.

B. Staff

Identify all of your staff supervisory personnel who will provide, or assist in, the provision of production services. You must provide their name, business address and telephone number, and a current resume, or statement of event production experience for each identified person.

5. A written disclosure of all judicial, administrative and regulatory action, civil and criminal, in which you and your managers are, or may be, or have been, involved in any capacity, and a brief explanation of each identified matter including the name, address and telephone number of each entity prosecuting the action and information sufficient to identify the action, such as a case or docket number and a listing of all criminal

and civil judgments, orders and consent orders, liens of any type and bankruptcy filings.

C. In the envelope marked "Fee", submit the fee which you will charge to provide the services requested for the thirty one (31) month Term of the Agreement.

Selection Process

Selection will result from an evaluation by a selection committee composed of officers of the Department. Proposals will be evaluated on technical content (60 points), fee offered (40 points) and your oral presentation.

A. The technical portion of your proposal will be evaluated and a tentative score determined. Your technical proposal will be reevaluated after your oral presentation and a final score will then be made. Items 1 through 5 in your Technical Proposal are worth sixty (60) points, distributed as follows:

- Scope of your provided services. 15 points (Item 1).
- Strength of financial references. 10 points (Item 2).
- Explanation of the services you intend to provide. 15 points (Item 3).
- Experience of your management and supervisory staff who would be assigned to provide the requested services. 15 points (Item 4)
- Absence of any judicial, administrative, regulatory, and or criminal action against you, the proposer, and your officers and employees identified in Item 4. 5 points. (Item 5)

The initial point awards are tentative and may be confirmed, or subject to change, after your oral presentation.

B. The fee portion of your proposal will be worth forty (40) points awarded using the formula below.

$$40 \times \frac{\text{fee being evaluated}}{\text{Lowest fee}}$$

Oral Presentation

The three (3) highest scoring proposers will be invited to make an oral presentation, not to exceed fifteen (15) minutes, explaining why each should be selected. The presenter should explain why the proposer's services best provide what the Department seeks, demonstrate familiarity with the entertainment presented during the New York State Fair and entertainment production requirements. The presenter will

also be questioned by the members of the oral panel and must provide responses to the questions. No subsequent supplementation or explanation will be allowed after the presentation, including the question and answer period, is finished. The question and answer period will not exceed fifteen (15) minutes.

Accounting Records

The selected proposer shall maintain all financial and accounting records and other documents relating to the Agreement in accordance with generally accepted accounting principles and all such records shall be made available, upon request, to the Department and the Comptroller of the State of New York, at all reasonable times during the Agreement period and for six (6) years from the expiration date of the Agreement.

Transfer of Interest Prohibited

The Department will select the Proposer, in part, upon the Proposer's particular and personal experience and ability to provide the services sought under this Request for Proposal.

The Agreement awarded from this Request presumes that the Proposer's ownership will not change during the Term of the Agreement. No change in ownership or principals of the Proposer shall be made or become effective unless the Department is notified in writing of the change not less than ninety (90) days before the proposed change.

In the event of change of ownership or principals of the Proposer, the Agreement may be terminated by the Department without liability.

Subcontracting will not be permitted.

Insurance

The Proposer shall obtain and maintain at its sole cost and expense, during the Term of the Agreement, comprehensive general liability insurance from a company licensed to do business in New York State, of not less than one million dollars (\$1,000,000.00) per occurrence combined single limit bodily injury and property damage. The Department shall be named as an additional insured on all policies of insurance provided and maintained by the Proposer.

The Proposer shall obtain workers compensation coverage covering all persons working for the Proposer or on its behalf as required by law.

Use of New York State Fair Name and Logo

The Proposer may, upon such terms and conditions as may be determined by the Department, be permitted to use the term "New York State Fair" and the New York State Fair logo in connection with Proposer's provision of services under this Agreement. Such permission will not be unreasonably withheld and will be given only on a per-occurrence or per-request basis and shall not be deemed blanket permission for the use of the name and logo. The Proposer shall make a prior written request to the Department for such permission not later than fifteen (15) days prior to such intended use.

New York Law

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

Approvals

The Agreement 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 as provided by law.

Standard Contract Provisions

The Standard Contract Provisions which are attached to this RFP will be part of the Agreement. Please read and execute them where required and return them with your proposal.

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 license awarded under this RFP, 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 license 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/procurecounc/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/bidder during the procurement process. (See Attachment 8 -- "Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence".) An offeror/bidder is restricted from making contacts from the earliest notice of intent to solicit bids/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 RFP:

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 RFP or proposal price was arrived at independently.

Notification of Award

The Department will notify the selected Proposer verbally, followed by a written confirmation. Each Proposer whose proposal is not selected will be notified in writing by the Department within three business days after the award is made.

Debriefing – Protest

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful Proposer has the right to a debriefing regarding the reasons their proposal was not selected for an award. An unsuccessful Proposer must request a debriefing within thirty (30) days from the date of the notification stating that their proposal has not been selected. 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.

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 RFP, 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 RFP.

Freedom of Information

The selected Proposer's proposal and any license resulting from this RFP are subject to the provisions of New York's Freedom of Information Law, Public Officers Law, Article 6. The selected Proposer's financial and proprietary business information will be received and accepted as confidential information and not subject to disclosure.

February 22, 2010

New York State Fair
2009 Grandstand Events

<u>Date</u>	<u>Artist</u>	<u>Total Attendance</u>
21-Aug	Kelly Clarkson	5,854
28-Aug	Kenny Chesney	15,157
29-Aug	The Fray	4,768
30-Aug	Jeff Dunham	16,175
31-Aug	Colgate Country Showdown	1,800
01-Sep	Fight Night at the Fair	962
03-Sep	Motley Crue	8,599
04-Sep	Big & Rich	4,298
05-Sept	Kid Rock	11,261

New York State Department of Agriculture and Markets
Division of the State Fair

Fee

Entertainment Production Services

Fee

Company

Contact Name (print)

Signature

Date