

REQUEST FOR PROPOSALS

ENTERTAINMENT

New York State Fair 2009

This Request for Proposals (RFP) is issued by the New York State Department of Agriculture and Markets (Department) on behalf of its Division of the New York State Fair (Division or Fair) to invite qualified proposers to submit a proposal to provide entertainment booking services and, together with the Fair's current advertising agency, entertainment advertising, marketing and promotion services for the entertainment presented at the 2009 New York State Fair.

Proposals must be received in hand by the Department no later than 3:00 pm local time on December 1, 2008. 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 three (3) copies of your proposal in a sealed envelope, or package, marked "State Fair Entertainment - 2009". Proposals may not be submitted electronically, nor by fax. Your proposal will consist of three parts; minimum qualifications, background and experience, and cost. Inquiries about this request shall be directed to Lucy Roberson, in writing at the above address, or via email to lucy.roberson@agmkt.state.ny.us and received no later than November 21, 2008. 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 November 24, 2008. The questions and answers, when posted, are part of this Request.

Addenda to the Request for Proposal

If it becomes necessary to revise any portion of the RFP, the revision 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.

Introduction

The Empire Expo Center, in Syracuse, New York, is a 375 acre site which is home to the annual New York State Fair, a twelve day event ending on Labor Day each year. The State Fair drew 927,871 persons in 2008. The 2009 State Fair opens on August 27, 2009 and closes on September 7, 2009.

Entertainment will be presented at the outdoor Grandstand, which can seat 17,000 persons. Admission to the Grandstand requires the purchase of a ticket. Approximately 97,000 persons attended eleven entertainment events at the Grandstand during the 2008 State Fair, with an average paid attendance per event of 8,130.

Entertainment is also presented daily over the 12 day State Fair at Chevy Court. Chevy Court is also outdoors. It can accommodate 5,000 persons and admission is free.

To see the entertainment at the 2008 State Fair please go to the Fair's website www.nysfair.org under "Entertainment".

Objective

The objective of this RFP is to retain a proposer to: (i) provide entertainment booking services for entertainment at the Grandstand, the cost of the entertainment to be at the Fair's expense, for seven (7) nights during the New York State Fair, excluding Labor Day and the Sunday immediately preceding Labor Day, and (ii) provide, at the expense of the Fair, entertainment booking at Chevy Court each afternoon and evening during the 2009 New York State Fair, with entertainment on one day, such day to be mutually agreed upon by the Fair and the proposer, to consist of artists and acts residing in the Central New York Region, and, on two (2) other days to be determined by the Fair, provide two (2) additional acts or artists, for a total of four (4) performances at Chevy Court on those days, and (iii) together with the Fair's current advertising agency, advertise, market and promote entertainment events at the Grandstand and Chevy Court, subject to the prior approval of the Fair.

Scope of Services

The selected proposer shall, for the Grandstand during the 2009 New York State Fair:

1. Identify, evaluate and recommend entertainment events to be presented at the Grandstand, including the prospective cost of each event and suggested ticket pricing;
2. Upon the approval of the Fair, negotiate contracts with each artist or act for entertainment to be presented at the Grandstand with the total guarantee to all artists and acts not to exceed two million five hundred thousand dollars (\$2.5 m).

The selected proposer shall, for Chevy Court during the 2009 New York State Fair:

1. Identify, evaluate and recommend entertainment events to be presented at Chevy Court, including the prospective cost of each event.
2. Upon the approval of the Fair, negotiate contracts with each artist or act for entertainment to be presented at Chevy Court, with the total cost for such artists or acts not to exceed seven hundred fifty thousand dollars (\$750,000.00).

The Fair will provide, through its current advertising agency, not more than \$150,000.00 to advertise, market and promote entertainment at the Grandstand and Chevy Court.

Contract Period

The contract awarded will be for a one year period with two one year extension options to be exercised solely by the Department/Fair. The first year of the contract will begin on or about January 1, 2009 and end on December 31, 2009.

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

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Department and an offeror/bidder during the procurement process. 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 to other than the Department personnel identified in this request 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 are identified in this solicitation.

Schedule

The Department and Division reserve the right to change any of the following 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 of any changes in the schedule.

Event Date

RFP Issued	November 10, 2008
Last Date for Inquiries	November 21, 2008
Responses to Inquiries	November 24, 2008
Proposals Due	December 1, 2008
Selection	December 5, 2008

Proposal Security and Performance Bond

All proposals must be accompanied by proposal security in the form of a certified check in the amount of \$5,000.00 made payable to the New York State Department of Agriculture and Markets. Proposal security provided by the selected proposer and the second-ranking proposer shall be held by the Department and will be returned to those proposers only upon final approval of the contract between the Department and the selected proposer by the Office of the State Comptroller. Proposal security provided by all other proposers will be returned within ten (10) business days from the selection date.

The selected proposer must, within twenty business days from notification of selection, provide a performance bond or letter of credit in the amount of fifty thousand dollars (\$50,000.00) to guarantee its performance under the contract.

Proposal Submission

Sealed written proposals responding to this RFP must be received **in hand** by the Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235 by 3:00 p.m. local time December 1, 2008. Proposals must be addressed to Lucy Roberson, Director of Fiscal Management and shall be clearly marked "State Fair Entertainment - 2009". An original and three (3) copies of the proposal shall be submitted. Within the sealed envelope, place three (3) separate sealed envelopes, one marked and containing your "Minimum Qualifications", one marked and containing your "Background and Experience", and one marked and containing your "Cost".

Modification and Withdrawal of Proposals

All proposals, and all terms in proposals, shall be firm and not revocable for a period of thirty (30) days from the date proposals are due, unless withdrawn as provided below.

Modification of a proposal must be submitted in a sealed envelope clearly marked as "Modification to 2009 State Fair Entertainment Proposal Submitted by [Proposer Name]." Modifications must be in writing, dated and signed by the person who signed the original proposal.

Withdrawal of a proposal must be submitted in a sealed envelope clearly marked as "Withdrawal of 2009 State Fair Entertainment Proposal Submitted by [Proposer Name]". The withdrawal must be in writing, dated and signed by the person who signed the original proposal.

The modification or withdrawal of a proposal will not be effective unless received, **in hand**, by Lucy Roberson, the Director of Fiscal Management for the Department, or her designee, prior to the date and time for receipt of proposals. The Department is located at 10B Airline Drive in the Town of Colonie, Albany County, New York.

Late Proposals

Proposals received after 3:00 pm December 1, 2008 will be rejected and will be returned unopened to the Proposer.

Selection of Proposal(s)

Only qualified proposers that have submitted complete information will be considered.

The Department reserves the right to:

- reject any or all proposals, or separable portions of proposals, received with respect to this RFP;
- waive or modify minor irregularities in proposals received;
- request from a proposer additional information deemed necessary to more fully evaluate its proposal;
- request that proposers provide missing information where that information is

not a material part of the proposal; and

- amend this RFP after its release, with appropriate written notice posted on the Department's website.

Proposal - Minimum Qualifications

Submit in a separate sealed envelope marked:

2009 State Fair Entertainment RFP – Minimum Qualifications [Proposer Name]

1. Documentation that the proposer is authorized to do business in New York State.

If the proposer is:

- a corporation or limited liability company formed under New York Law, submit a copy of your current New York Department of State registration.
- a corporation or limited liability company formed under the laws of another state or a foreign jurisdiction, submit a copy of your current authorization to do business in New York.
- a limited partnership or a limited liability partnership, submit a copy of your current New York Department of State registration.
- a general partnership or individual doing business under an assumed name, submit a copy of your assumed name certificate stamped to show the date of filing with the clerk of the county in which you conduct business.

2. The proposer must affirmatively certify that, as of the date of submission of its proposal, the proposer is current on all tax liabilities to the State of New York, except those which the proposer has formally challenged in an administrative or judicial forum.

3. The proposer must document that, as of the date of submission of its proposal, it has provided services similar to those sought by this RFP to clients operating venues of similar capacity as the Grandstand and Chevy Court for a period of at least five (5) years. Submit, at a minimum, a copy of one agreement showing the provision of services at a venue of similar capacity as the Grandstand and similar to those sought by this RFP for each of the last five (5) calendar years.

Proposal - Background and Experience

Submit in a separate sealed envelope marked:

2009 State Fair Entertainment – Background and Experience [Proposer Name]

1. The name, address, telephone number, e-mail address and fax number of the proposer and the proposer's contact person.

2. An organizational chart of the proposer including all executives, public relations, talent buyer and other personnel the proposer will use to provide the requested services together with a brief description of the person's background and experience.

3. Company name, address, telephone number and contact name of the proposer's current similar clients or venues, and a detailed description of the services the proposer provides to the client.

4. Certified financial statements concerning the proposer's operations for the last three fiscal or calendar years, prepared in accordance with generally accepted accounting principles.

5. A list of acts, events and performances the proposer has booked in the United States during the two years immediately preceding submission of the proposal, including, as references, the name or identity of three venues and the name and contact information of a person at each venue who is familiar with your services.

Proposal - Cost

Submit in a separate sealed envelope marked:

2009 State Fair Entertainment RFP – Cost

1. State the fixed amount you will charge to the Fair for each ticket sold for admission to an entertainment event at the Grandstand for providing the services sought by this RFP for the 2009 New York State Fair.

2. State the fixed amount you will charge to the Fair for each ticket sold for admission to an entertainment event at the Grandstand for providing the services sought by this RFP for the 2010 New York State Fair.

3. State the fixed amount you will charge to the Fair for each ticket sold for admission to an entertainment event at the Grandstand for providing the services sought by this RFP for the 2011 New York State Fair.

Your charge per ticket will be paid to you by the Fair **contingent upon** the sale of a minimum of five thousand (5,000) tickets for each entertainment event presented at the Grandstand. If ticket sales for any entertainment event at the Grandstand do not exceed five thousand (5,000) tickets, you will not be entitled to, nor will you be paid your charge per ticket for that event and the Fair shall have no payment obligation to you.

IMPORTANT

- *For 2009 the Fair has budgeted up to \$2.5 million for guaranteed payments to artists and acts performing at the Grandstand.*

- *The Fair will provide a stage at the Grandstand (there is a permanent stage at Chevy Court), and will provide production, backline, sound and lights at the Grandstand and Chevy Court.*

- *The Fair will have catering available at the Grandstand, however:*

- *The cost of catering will be paid by the artist or act directly to the caterer, and*
- *If the artist or act provides its own catering and requires the available caterer to vacate, the artist or act shall pay the actual cost of the available caterer's tear-down, storage and set-up directly to the caterer.*
- *The Fair will purchase not more than 250 tickets per event to fulfill the Fair's commitments to its own sponsors and advertisers.*
- *Tickets for Grandstand entertainment must be sold through Ticketmaster pursuant to a written agreement between the Fair and Ticketmaster.*

Evaluation Criteria and Procedure

The Background and Experience portion of your proposal will be evaluated by a 5 member team composed of Department and Division staff. This portion is worth 55 points.

The Cost portion of your proposal will be evaluated by the Department's Division of Fiscal Management. This portion is worth 45 points.

Qualifying proposals will be evaluated by comparing and ranking each proposal with respect to:

- Background and Experience (55 points total)
 - Does the proposer demonstrate the ability and have the experience to provide the requested services? (25 points total)
 - Does the proposer have the financial and organizational capacity to provide the requested services? (20 points total)
 - Do the proposer's booking and references show the proposer's ability to provide the requested services. (10 points)
- Cost (45 points total; 15 points for each year)
 - Cost. (45 points)

The lowest offered cost in each year will receive the maximum points. The next lowest and succeeding costs will be awarded points as follows: $\text{lowest cost} / \text{cost being evaluated} = \% \times 15 \text{ points} = \text{points awarded}$. This calculation will be made for each cost for each of the years 2009, 2010 and 2011.

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.

Acceptance of Proposal Content

The selected proposer's proposal and this RFP will become part of any contract awarded.

Subcontracting

The selected proposer may not convey, assign or otherwise dispose of the contract, or the proposer's right, title, or interest in the contract, or its power to execute the contract, to any other person, company, corporation, or entity without the prior written consent and written approval of the Department and the Division.

Accounting Records

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

The selected proposer shall complete and maintain, in affidavit form, a record of each "trade" or other disposition of every Grandstand admission ticket made and the value received, which shall identify the parties to the trade or disposition, the object of the trade and the value of each, the date the trade was agreed upon and the date the "trade" occurred.

Contract Continuity

Upon expiration of the contract, if the Department and the Division and the selected proposer fail to accept or agree to a contract extension for an additional period, the selected proposer must continue to provide all services under the contract for a period not to exceed four (4) months.

Freedom of Information

The selected proposer's proposal and any contract resulting from this RFP is subject to the provisions of New York's Freedom of Information Law Public Officers Law, Article 6. In so far as permitted under Article 6, the selected proposer's financial and proprietary business information will not be subject to disclosure.

Standard Contract Provisions

The Standard Contract Provisions which are attached to this RFP will be part of the contract.

Please read and execute them where required, and return the Standard Provisions with your proposal.

Certification Pursuant to New York State 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 selected 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 and Women Owned Businesses Equal Employment Opportunities and 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%

Notification of Award - Debriefing

The Department will notify the successful proposer verbally, followed by a written confirmation. Each proposer whose proposal is not selected will be notified in writing by the Department. Pursuant to section 163, subd. 9(c) of the State Finance Law, an unsuccessful proposer may request 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 notification stating that their proposal has not been selected. To request a debriefing an unsuccessful proposer should contact Cindy Itzo, Division of Fiscal Management, by phone at: (518) 457-2080 or via e-mail at cindy.itzo@agmkt.state.ny.us.