

REQUEST FOR PROPOSALS

New York State Department of Agriculture and Markets

RFP #0153 - Taste NY Management Services

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Exhibit 1 Taste NY Program Description

Exhibit 2 Sample Contract

REQUEST FOR PROPOSALS
New York State Department of Agriculture and Markets

TASTE NY MANAGEMENT SERVICES

1. INTRODUCTION:

1.1 OVERVIEW

Taste NY is an initiative launched by Governor Cuomo in 2013 to promote New York’s food and beverage industries. It is overseen by the Department and has created opportunities for local producers to showcase their goods. (See Exhibit 1)

Taste NY currently has a presence at more than 50 public facilities, including ski centers, airports, roadside rest areas, and sports arenas.

Taste NY also furthers the State’s goal of highlighting and promoting the many travel and tourism opportunities in New York.

Taste NY stores are retail locations that include a dedicated shopping area that offer local foods and beverages. Stores carry ready-to-go items, such as locally prepared sandwiches, baked goods, and coffee, as well as grocery items such as frozen meats, fresh dairy, eggs and spices. Stores also feature gift products, including Taste NY gift baskets made with local food and beverages.

1.2 RFP GOAL:

The Department is seeking a vendor to provide professional oversight for the consistent management of Taste NY stores to ensure a world-class customer and tourism experience. The Contractor will work with the Department and its partners to provide promotion and presentation advice, roll out guidance for new locations, and operational and management experience that supports growth and expansion of the Taste NY program.

1.3 ELIGIBLE BIDDERS:

Any Proposer that meets the minimum qualifications set forth in Section 3.3 of this RFP is eligible to submit a bid to this RFP.

1.4 TERM:

The three (3) year term of the Contract shall begin on April 1, 2017 and end on March 31, 2020 subject to the approval of the Office of the State Comptroller, with the option for two one-year renewals.

1.5 RFP TIMELINE:

RFP Posted	December 13, 2017
Questions regarding this RFP must be submitted by 3:00 PM	January 6, 2017
A Question and Answer document will be posted to http://www.agriculture.ny.gov/RFPS.html no later than:	January 13, 2017
Bidder Response Due by 3:00 PM	January 27, 2017
Tentative Award Date	March 3, 2017

The Department intends to award one contract from this RFP.

2. DESCRIPTION OF WORK TO BE PERFORMED:

2.1 LOCATIONS

There are four existing Taste NY store locations statewide: Broome Gateway (Broome County), Lock E-13 (Montgomery County), Todd Hill (Dutchess County); Long Island Welcome Center (Suffolk County).

2.2 SCOPE OF WORK

The selected Contractor will be responsible for providing recommendations on the following at store locations:

- A. Promotion and presentation
 - In-store merchandizing
 - Seasonal displays
 - Product selection and presentation

- B. Roll out strategy for new sites
 - Development of budget and staffing plans
 - Financial reporting and projections
 - Evaluation and set-up of physical site, including floor plan and equipment requirements

- C. Operational and management assistance
 - Regulatory compliance, including food safety and sanitation
 - Employee training with a focus on customer service
 - Inventory control procedures
 - Vendor relations and product sourcing
 - Recordkeeping, reporting, and fiscal document procedures including software recommendations
 - Identify sales and profit opportunities
 - Solutions for issues at individual locations
 - Evaluating all locations on an annual basis

3. PROPOSAL FORMAT, CONTENTS AND SUBMISSION:

3.1 SUBMISSION TIMELINE:

All proposal submission documents required to be responsive for proposal evaluation must be received by the Department no later than **3:00 p.m. on January 27, 2017** in order to be considered. The Department reserves the right to request any missing information from those items marked with an asterisk (*) on the Submission Documents Checklist. Bidder will have three (3) business days to provide any missing information requested by the Department for those items marked with an asterisk (*) on the Submission Documents Checklist. All remaining forms and documents required to be completed after notification of selection is made shall be submitted to the Department by the selected contractor prior to execution of the contract.

Any questions concerning this RFP must be received by **3:00 p.m. on January 6, 2017**. Questions must be submitted in writing. E-mail is preferred and should be directed to the designated contact for this procurement at procurement.info@agriculture.ny.gov (Attn: Judy Giovannetti). Please list RFP #0153 in the subject line. In the alternative, questions may be mailed to: NYS Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, New York 12235 Attn: Judy Giovannetti (RFP #0153).

A Question and Answer document will be posted to the Department website, <http://www.agriculture.ny.gov/RFPS.html> under "Current Funding Opportunities" no later than **January 13, 2017**. No individual written responses will be provided.

Any revisions to this RFP will be posted on the Department's website, <http://www.agriculture.ny.gov/RFPS.html>, under "Current Funding Opportunities." All bidders are responsible for keeping informed of any revisions to this RFP. All questions and answers shall be incorporated into the RFP which will be part of the awarded contract. If you are unable to access the Department's website, please contact Judy Giovannetti at procurement.info@agriculture.ny.gov to arrange for alternate delivery. You may also contact Judy Giovannetti at the mailing address noted above.

3.2 SUBMISSION METHOD:

Mail or hand deliver a bid response in **one package containing the following three (3) separately labeled envelopes:**

Envelope 1 - Minimum Qualifications and Forms and Assurances:

- Mail original plus four (4) paper copies of the Minimum Qualifications in a separate envelope labeled "RFP #0153 Minimum Qualifications and Forms and Assurances - Do Not Open" and include all required documentation to demonstrate that the Proposer meets the Minimum Qualifications set forth in Section 3.3 of this RFP including:
 - Proof of current filing status with New York State Department of State, and;**
- All Forms and Assurances located in the Submission Documents packet (which follows the Exhibits), original plus one (1) copy, including original signatures, where necessary.
 - Cover Sheet and Submission Documents Checklist**
 - **Attachment 2 - Mandatory Contract Requirements Certification Form (Original Signatures)**
 - **Attachment 3 - Non-Collusive Bidding Certification (Original Signatures and Notarized)**
 - **Attachment 4 - MacBride Nondiscrimination Certification Form (Original Signatures)**
 - **Attachment 5 - Procurement Lobbying Law Forms (Original Signatures)**
 - **Attachment 6 - Vendor Responsibility Forms (Original Signatures)**
 - **Attachment 7 - Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)**
 - **Attachment 8 - Vendor Assurance of No Conflict of Interest or Detrimental Effect (Original Signatures)**

Envelope 2 - Technical Proposal:

- Mail original plus four (4) paper copies and an electronic copy (in MS Word format) on a CD or flash drive of the completed Technical Proposal in a separate envelope labeled “RFP #0153 Technical Proposal - Do Not Open” and include:
 -Technical Proposal addressing the criteria set forth in Section 3.5 of this RFP

Envelope 3 - Cost Proposal:

- Mail original plus four (4) paper copies of the completed Bid Form in a separate envelope labeled “RFP #0153 Bid Form - Do Not Open” and include the following outlined below:
 -Attachment 1 - Bid Form (Original Signatures)

To the following address:
New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: Lisa Brooks (RFP#0153)

Facsimiles or e-mailed copies are not acceptable. Materials received after the due date/time may be returned unopened to the sender. See Section 3.7, Submission Documents, for information on completing a bid response.

3.3 MINIMUM QUALIFICATIONS:

To be considered the Proposer must be authorized to do business in New York State. Bidders are strongly encouraged to submit a copy of their current filing status with the New York State Department of State (DOS). The Department reserves the right to confirm bidder’s filing status with DOS in the event Bidder fails to provide proof of their filing status;

3.4 MANDATORY CONTRACT REQUIREMENTS

Each bidder must certify that:

A. No other obligation or engagement, contractual or otherwise, will conflict with or in any way impact its ability to provide the services required under the RFP.

B. It shall have full control of the operation and assume total responsibility for all liability for accident, injury and/or death that may occur as a result of services provided. The Vendor shall indemnify and hold harmless the State of New York, the Department, its officers and employees from all claims, demands, damages, expenses, liability or obligation for damages, loss or injury to, or of, any person or property arising out of the acts of Vendor, its agents, servants, employees and those acting for or on its behalf. Such indemnity shall not be limited by reasons of any insurance coverage provided.

C. It will obtain and maintain the following policy from an insurance company authorized to do business in the State of New York:

Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such insurance shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages, with no modification to the contractual

liability coverage provided therein. Coverages shall include liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage. If such insurance contains an aggregate limit, it shall apply separately on a per location or per project basis.

D. The selected Vendor agrees to comply with "Appendix A, Standard Clauses for New York State Contracts," a copy of which is in Exhibit 2 Sample Contract.

3.5 Technical Proposal - 70 Points

A. Scope of Services Plan (Maximum Score – 50 points)

Describe the bidder's approach in the following areas:

Promotion and presentation (0-10 points)

- In-store merchandizing
- Seasonal displays
- Product selection and presentation

Roll out strategy for new sites (0-10 points)

- Development of budget and staffing plans
- Financial reporting and projections
- Evaluation and set-up of physical site, including floor plan and equipment requirements

Operational and management assistance (0-30 points)

- Regulatory compliance, including food safety and sanitation
- Employee training with a focus on customer service
- Inventory control procedures
- Vendor relations and product sourcing
- Recordkeeping, reporting, and fiscal document procedures including software recommendations
- Identify sales and profit opportunities
- Solutions for issues at individual locations
- Evaluating all locations on an annual basis

B. Organizational Experience (Maximum Score - 10 points)

Describe the bidder's past performance in the following areas:

Marketing Strategy (0-3 points)

- In-store merchandizing
- Seasonal displays
- Product selection and presentation

Roll out strategy for new sites (0-3 points)

- Development of budget and staffing plans

- Financial reporting and projections
- Evaluation and set-up of physical site, including floor plan and equipment requirements

Operational and management assistance (0-4 points)

- Regulatory compliance, including food safety and sanitation
- Employee training with a focus on customer service
- Inventory control procedures
- Vendor relations and product sourcing
- Recordkeeping, reporting, and fiscal document procedures including software recommendations
- Identify sales and profit opportunities
- Solutions for issues at individual locations
- Evaluating all locations on an annual basis

C. Staff Qualifications (Maximum Score - 10 points)

Describe the qualifications and experience of the key personnel that will be assigned to this project in the following areas.

Marketing Strategy (0-3 points)

- In-store merchandizing
- Seasonal displays
- Product selection and presentation

Roll out strategy for new sites (0-3 points)

- Development of budget and staffing plans
- Financial reporting and projections
- Evaluation and set-up of physical site, including floor plan and equipment requirements

Operational and management assistance (0-4 points)

- Regulatory compliance, including food safety and sanitation
- Employee training with a focus on customer service
- Inventory control procedures
- Vendor relations and product sourcing
- Recordkeeping, reporting, and fiscal document procedures including software recommendations
- Identify sales and profit opportunities
- Solutions for issues at individual locations
- Evaluating all locations on an annual basis

3.6 BID FORM – 30 Points

The cost proposal will consist of the following:

The fixed fee per year for Taste NY management services – 30 points.

A three (3) year Contract with the option of two one-year renewals will be awarded. A fully completed and properly executed Bid Form (See Submission Documents Attachment 1) must be submitted for

this RFP. The Bid Form must not be altered in any way. All blanks must be filled in and a fixed annual fee must be offered.

See section 3.2 Submission Method for information on packaging the proposal.

3.7 SUBMISSION DOCUMENTS

The packet of submission documents is annexed to this solicitation and is also available at the Department's website, <http://www.agriculture.ny.gov/RFPS.html>.

Proposals should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond what is required to provide a complete presentation. If supplemental materials are a necessary part of the proposal, the bidder should reference these materials in the technical proposal, identifying the document(s) and citing the appropriate section(s) and page(s) to be reviewed. Any proprietary material considered confidential by the bidder must be specifically so identified, and the basis for such confidentiality must be specifically set forth in the proposal. Be advised that the Department is subject to the Freedom of Information Act as codified in the New York State Public Officers Law.

4.0 EVALUATION CRITERIA AND METHOD OF AWARD:

4.1 CONSIDERATION

For a bidder to be eligible for consideration, it must meet the Minimum Qualifications. To be awarded a contract, the bidder must certify that it meets the Mandatory Contract Requirements.

4.2 CRITERIA FOR EVALUATING BIDS

All complete proposals received by the deadline will be reviewed using the following criteria and ratings.

A proposal will first be reviewed by the Department's staff to ensure that the proposal is complete, and that all of the minimum qualifications have been met. The Department reserves the right to request any missing information from those items marked with an asterisk (*) on the Submission Documents Checklist. Bidder will have three (3) business days to provide any missing information requested by the Department for those items marked with an asterisk (*) on the Submission Documents Checklist.

A technical evaluation committee will complete a review of the Technical Proposal for all complete proposals submitted. The technical evaluation committee will review each Technical Proposal to determine compliance with the requirements described in this RFP. The committee retains the right to determine whether any deviation from the requirements of the RFP is substantial in nature and may reject, in whole or in part, any and all proposals, and/or waive minor irregularities.

All proposals received by eligible and qualified bidders will be evaluated. The Department may request written clarifications during evaluations. In the event written clarifications are necessary, the evaluation committee will meet to discuss clarifications and any disparate scores. The evaluation committee will be permitted to review its scoring and to make corrections based upon written clarifications, errors discovered and/or disparate scores.

All complete proposals received by the deadline will be reviewed using the following criteria and ratings.

Technical Criteria (70%)

Technical Proposal 70 points

Financial Criteria (30%)

Bid Form 30 points

Maximum Score - 100 points

4.3 LOWEST COST

The financial portion represents a total of 30 points of the overall score and will be awarded pursuant to the formula below. This calculation will be computed by the Department's Division of Fiscal Management independently of the technical scoring by evaluation committee.

The bidder whose Cost Proposal is determined to result in the lowest overall cost will be awarded 30 points.

The remaining bids will be awarded points based on a calculation below that computes the relative difference between each bid and the lowest bid received.

Cost Score Calculation: $\text{Points} = (\text{lowest bid divided by the bid being evaluated}) \times 30$.

The Department reserves the right to request best and final offers. In the event the Department exercises this right, all eligible and qualified bidders will be asked to provide a best and final offer. Fiscal Management will recalculate the cost proposal score.

The fee agreed upon in the contract may be increased up to the same percentage as the change in the U.S. city average, Consumer Price Index (All Items) for All Urban Consumers (CPI-U), not to exceed 3 %, during the 12 calendar months ending September 30th of the previous contract year, as reported by the U.S. Department of Labor Bureau of Labor Statistics in the CPI Detailed Report. It shall be the responsibility of the Contractor to annually request a payment change based upon the CPI, not to exceed 3%, which may be granted at the sole discretion of the Department. Requests for changes must be submitted in writing 90 days prior to September 30th each year. Only one price adjustment per year will be granted at the sole discretion of the Department. The Department reserves the right to request a price decrease should the relevant index referenced herein decrease.

4.4 METHOD OF AWARD

The Department intends to award a single contract to the eligible and qualified Bidder whose proposal results in the highest aggregate technical and cost score. The aggregate score of all the criteria listed will be calculated for each proposal received. The contract issued pursuant to this proposal will be awarded to the Proposer whose aggregate technical and cost score is the highest among all the proposals rated. In the case of a tie score, the bidder among the tied group with the highest cost score will be ranked higher.

5.0 CONSIDERATIONS RELATED TO THIS SOLICITATION:

5.1 DEPARTMENT'S RESERVATION OF RIGHTS:

The Department reserves the right to:

- Reject any or all proposals received with respect to this invitation;
- Withdraw the RFP at any time, at the Department's sole discretion or otherwise decline to award a contract from this invitation;
- Make an award in whole or in part;
- Require clarification from any bidder to assure a full understanding of the responsiveness to the requirements of the invitation;
- Disqualify any bidder whose conduct and/or bid response fails to conform to the requirements of the RFP;
- Use proposal information obtained through site visits, management interviews and New York State's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the Department's request for clarifying information in the course of evaluation and/or selection under the RFP;
- Waive or modify minor irregularities in bids received;
- Request additional information from bidders as deemed necessary to more fully evaluate bids or to obtain omitted required forms. Bidders will have three (3) business days to respond to the request;
- Prior to the bid opening, amend this solicitation after its release, with appropriate written notice posted on the Department's website to correct errors or oversights, or to supply additional information, as it becomes available;
- Prior to the bid opening, direct bidders to submit bid response modifications addressing subsequent RFP amendments;
- Change any of the scheduled dates;
- Eliminate any minimum or mandatory, non-material specifications that cannot be complied with by all of the bidders;
- Waive any requirements that are not material;
- Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 120 days from the bid opening.
- Negotiate with the successful bidder within the scope of the IFB/RFP in the best interests of New York State;
- Utilize any and all ideas submitted in the proposals received; and
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation.

5.2 SUBCONTRACTING

No subcontracting is permitted. AGM will contract only with the successful Bidder who is the Prime Contractor.

5.3 NOTIFICATION OF AWARD:

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

5.4 DEBRIEFING PROCEDURES:

Pursuant to section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of notification by OGS that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the Solicitation.

5.5 BID PROTEST PROCEDURES:

Bidders who receive a notice of non-award may protest the award decision subject to the following:

- A. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by the Department.
- B. The protest must be filed within ten (10) business days of receipt of a debriefing letter, or ten (10) business days of receipt of the notice of non-award, whichever is later. The protest letter must be filed with: New York State Department of Agriculture and Markets, Fiscal Management, Contracts Unit, 10B Airline Drive, Albany, NY 12235. Please include the title and number of the Department solicitation in any correspondence.
- C. Fiscal Management will convene a review team that will include at least one staff member from each of the Department's Counsel's Office, Fiscal and the Program Division. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the bidder with written notification of the review team's decision within seven (7) business days of receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and, and Fiscal Management will advise OSC that a protest was filed.
- D. Fiscal Management in consultation with Counsel's Office may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts. More information on the Office of the State Comptroller's (OSC) Contract Award Protest Procedures can be found in OSC's Guide to Financial Operations (GFO), Chapter XI.17, available on the internet at:

<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

An unsuccessful bidder may also 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.

5.6 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.

5.7 REQUIRED APPROVALS:

Any contract award resulting from this solicitation will be subject to the approval of the Office of the Attorney General of the State of New York and the Office of the State Comptroller of the State of New York.

5.8 VENDOR RESPONSIBILITY AND NYS VENDOR ID:

Prime Contractors:

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, the Department must make an affirmative responsibility determination. The factors to be considered include: legal authority to do business in New York State; integrity; capacity- both organizational and financial; and previous performance. Before an award of \$100,000 or greater can be made to a covered entity, the entity will be required to complete and submit a Vendor Responsibility Questionnaire. Public Authorities, BOCES, public colleges and universities are some of the exempt entities. For a complete list, see:

http://www.osc.state.ny.us/vendrep/resources_docreq_agency.htm

All bidders must fully and accurately complete the Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"). All bidders acknowledge that the Department's execution of the Contract will be contingent upon the Department's determination that the bidder is responsible, and that the Department will be relying upon the bidder's responses to the Questionnaire in making that determination. If it is found by the Department that a bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, 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: Bidders are encouraged 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>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Note: Bidders must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids (Submission Documents).

5.9 PROCUREMENT LOBBYING LAW:

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 offerer/bidder during the procurement process. (See *Submission Documents Packet, Attachment 5 -- "Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence"*). An offerer/bidder is restricted from making contacts from the earliest written notice, advertisement or solicitation of the RFP 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 offerer/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 offerer/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 member to receive contacts pertaining to this Bid:

Judy Giovannetti
New York State Department of Agriculture and Markets
Division of Fiscal Management
10B Airline Drive
Albany, New York 12235
E-mail: procurement.info@agriculture.ny.gov

6.0 REQUIRED ASSURANCES:

6.1 SUBMISSION DOCUMENTS

The documents listed below are included in the **Submission Documents** section, which follows. All documents requiring signature must be signed by an authorized representative of the Bidding entity. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful bidder and the New York State Department of Agriculture and Markets. Please refer to Section 3.2, "Submission Method" for more information on how to package your proposal:

- **Bid Form** (Signature Required - the form is included in the **Submission Documents as Attachment 1**)
- **Mandatory Requirements Certification Form** (Signature Required - the form is included in the **Submission Documents as Attachment 2**)
- **Non-Collusive Bidding Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 3**)
- **MacBride Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 4**)
- **Offerer Disclosure of Prior Non-Responsibility Determinations (Procurement Lobby Law Forms)** (Signature Required - the form is included in the **Submission Documents as Attachment 5**)

- **Vendor Responsibility** (Signature Required - the form is included in the **Submission Documents as Attachment 6**)
- **Substitute W-9 Form to obtain SFS ID** (Signature Required - Return if SFS Vendor ID is requested – the form is included in the **Submission Documents as Attachment 7**)

6.2 CONTRACT DOCUMENTS AND REQUIREMENTS

The successful bidder will be required to execute a written contract with the Department. A sample New York State Department of Agriculture and Market's contract is attached to this RFP as Exhibit 2. By submitting a bid, bidder agrees to be bound by all terms and conditions in the Department's contract including: Appendix A "Standard Clauses for New York State Contracts" (January 2014); Appendix D "General Conditions for Agreements New York State Department of Agriculture and Markets" and; Appendix E "Special Conditions for Agreements New York State Department of Agriculture and Markets."

6.3 RECOMMENDED SUBMISSIONS

The following forms are not required to be submitted with the bid response. Nevertheless, Bidders are encouraged to submit these forms in order to expedite contract execution if the bidder is awarded the contract.

Workers' Compensation Coverage and Debarment

New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of vendors that violate certain sections of WCL. The WCL requires, and has required since introduction of the law in 1922, the heads of all municipal and State entities to ensure that businesses have appropriate workers' compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

Workers' compensation requirements are covered by WCL Section 57, while disability benefits are covered by WCL Section 220(8). The Workers' Compensation Benefits clause in Appendix A – STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS states that in accordance with Section 142 of the State Finance Law, a contract shall be void and of no force and effect unless the contractor provides and maintains coverage during the life of the contract for the benefit of such employees as are required to be covered by the provisions of the WCL.

Under provisions of the 2007 Workers' Compensation Reform Legislation (WCL Section 141-b), any person, or entity substantially owned by that person: subject to a final assessment of civil fines or penalties, subject to a stop-work order, or convicted of a misdemeanor for violation of Workers' Compensation laws Section 52 or 131, is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each violation. The ban is five years for each felony conviction.

Proof of Coverage Requirements

The Workers' Compensation Board has developed several forms to assist State contracting entities in ensuring that businesses have the appropriate workers' compensation and disability insurance coverage as required by Sections 57 and 220(8) of the WCL. ***Please note – an ACORD form is not***

acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a State contract submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate workers' compensation insurance coverage:

- **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund; or
- **Form SI-12**– Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

To comply with coverage provisions of the WCL regarding disability benefits, the Workers' Compensation Board requires that a business seeking to enter into a State contract must submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate disability benefits insurance coverage:

- **Form DB-120.1** - Certificate of Disability Benefits Insurance; or
- **Form DB-155**- Certificate of Disability Benefits Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: New York State Department of Agriculture and Markets, Division of the New York State Fair, 581 State Fair Boulevard, Syracuse, NY 13209 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

For additional information regarding workers' compensation and disability benefits requirements, please refer to the New York State Workers' Compensation Board website at:

<http://www.wcb.ny.gov/content/main/Employers/busPermits.jsp>. Alternatively, questions relating to either workers' compensation or disability benefits coverage should be directed to the NYS Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

Sales and Compensating Use Tax Certification (Tax Law § 5-a)

Tax Law § 5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance (“DTF”) that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected bidder must file a properly completed Form ST-220-CA (with OSC as the Contracting Agency within 48 hours of notification of selection for award) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance’s website, available through this link: www.tax.ny.gov/pdf/publications/sales/pub223.pdf. Forms are available through these links:

- ST-220 CA: http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf
- ST-220 TD: http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

Please note that although these forms are not required as part of the bid submissions, the Department encourages bidders to include them with their bid submissions to expedite contract execution if the bidder is awarded the contract.