

INVITATION FOR BIDS

for

**TENTS, TENT LIGHTING, TABLES AND CHAIRS
RENTAL, INSTALLATION, MAINTENANCE AND REMOVAL
AT THE NEW YORK STATE FAIRGROUNDS**

IFB #0124

IFB Issued: April 2, 2015
Proposals Due: April 29, 2015

By:

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

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0124: TENTS, TENT LIGHTING, TABLES AND CHAIRS RENTAL, INSTALLATION,
MAINTENANCE AND REMOVAL AT THE NYS FAIRGROUNDS

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EXHIBIT 1 – 2014 NYS FAIR TENTS, TABLES, AND CHAIRS RENTAL ORDER

EXHIBIT 2 – RATING FORM

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1. INTRODUCTION

1.1 OVERVIEW

The New York State Department of Agriculture and Markets (the Department) owns and manages the New York State Fairgrounds in the Town of Geddes, Onondaga County, New York (the Fairgrounds). The Fairgrounds hosts the New York State Fair, which is held each year for twelve days ending on Labor Day.

The Department is seeking bids for the rental, installation, maintenance and removal of various sized tents, tent lighting, and tables and chairs for the annual New York State Fair.

1.2 IFB GOAL

The objective of this IFB is to retain a contractor to provide, install, maintain, and remove various sized tents, tent lighting, and tables and chairs at locations throughout the Fairgrounds during the annual New York State Fair. Tents must be in excellent condition, clean, and provide a bright, cheerful and festive atmosphere for State Fair patrons. Tables and chairs must be in excellent condition, clean, and ready for immediate use.

1.3 TERM

The contract resulting from this IFB will be for a five (5) year term. The contract will begin on June 1, 2015 and end on December 31, 2019.

1.4 IFB TIMELINE

Publication in Contract Reporter	April 2, 2015
Deadline for Submission of Written Questions	April 13, 2015 by 3:00 p.m.
Last update of answers or issuance of IFB Addendum	April 17, 2015
Submission Deadline	April 29, 2015 by 3:00 p.m.
Bid Opening	April 30, 2015

The Department intends to make an award within thirty (30) days of the Bid Response due date. The contract will require approval from the Office of the Attorney General of the State of New York (AG) and the Office of the State Comptroller of the State of New York (OSC) before it becomes effective.

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2. DESCRIPTION OF WORK TO BE PERFORMED

2.1 PREMISES

The New York State Fairgrounds is a 375-acre site that is home to the annual New York State Fair and other year-round events.

2.2 SCOPE OF WORK

The selected contractor will have the exclusive right and obligation to provide, install, and maintain various sized tents, tent lighting, and tables and chairs at the Fairgrounds during the annual New York State Fair for the contract period. The contractor shall be responsible for delivering, installing, and removing all tents, tent lighting, and tables and chairs at the contractor's sole cost and expense pursuant to the delivery schedule to be provided to the selected contractor by the Department.

The scope of work for this procurement is divided into three Lots: Lot #1 – Standard Rigid Frame Tents; Lot #2 - Clear Span Rigid Frame Tents, and; Lot #3 – Tables & Chairs. The contract will be awarded as a whole and will not be awarded by Lot. Prices for tents will be provided on a per square foot basis and should include sides and lights in the per square foot pricing. Pricing for the tables and chairs will be for each item rented.

2.2.1 LOT #1 & 2 – STANDARD RIGID FRAME & CLEAR SPAN RIGID FRAME TENTS

A. TENT INVENTORY DETAIL

- Bidder shall own or have access to tents in all the sizes and quantities listed in Exhibit 1, attached to this IFB. Exhibit 1 is a list of all tents rented by the Department for the 2014 Fair. The sizes and quantities of tents rented in 2014 is subject to change for the 2015 Fair and subsequent Fairs at the Department's discretion. The Department will provide the selected contractor with final quantities and sizes of tents needed from the selected contractor by June 30th each year.
- All tents and lighting must comply with the specifications listed below.
- The successful contractor shall provide, install and maintain all tents and lighting as required by the Department for the duration of the State Fair.

B. TENT AND LIGHTING SPECIFICATIONS, INSTALLATION, AND MAINTENANCE

Lot #1 and Lot #2 – Standard Rigid Frame and Clear Span Rigid Frame Tents

- All tents shall be clean, white, bright, and in excellent condition (no rips, tears, stains etc.).
- All tents, tent installation and tent operation shall comply with “Subpart 45-5 *Viewing Stands and Tents*” of Title 12 of the New York Code of Rules and Regulations, as amended, administered by the New York State Department of Labor available at the following internet address: http://labor.ny.gov/workerprotection/safetyhealth/DOSH_CODE_RULES.shtm, and bidder shall comply with any permit requirements pursuant to Article 27 of the New York

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State Labor Law (See <http://labor.ny.gov/formsdocs/wp/shformsandpublications.shtm> for permit information and application).

- All tents must meet NYS Fire Code Chapter 24 Standards (2010 or most current edition), available on the internet at: <http://publicecodes.cyberregs.com/st/ny/st/b300v10/>.
- All tent fabric must be flameproof, clean and in excellent condition. All tent fabric shall meet the requirements for flame resistance contained in NFPA 701, "Standard Methods of Fire Test for Flame-Resistant Textiles and Films," as referenced in NYS Fire Code Chapter 24 (2010 or most current edition). Written certification by a nationally recognized testing laboratory that the tent material complies with the foregoing standard must be provided to the Department at the time of bid submission and annually on or before June 1st.
- All stakes, if used, must have protective caps and all stake holes shall be filled upon removal with the same material in which the stake was placed. The holes must be filled by the selected contractor no later than September 30th each year and must be inspected and approved by the Department's Property Manager upon completion.
- All tents shall be cleaned after installation and immediately prior to the opening of the State Fair.
- The selected contractor shall provide a motorized cargo cart (ie. golf cart) or similar vehicle to access locations during the State Fair which are not accessible by motor vehicle to address any issues that may arise in a timely manner.
- Tents and lighting will be inspected by the selected contractor and the Department prior to opening of the State Fair and the selected contractor shall correct, repair or otherwise eliminate defects, tears and other noted deficiencies.

Lot #1 – Standard Rigid Frame Tents

- Free-standing with rigid frame, Anchor Industries Inc. Fiesta or equivalent.
- Minimum forty five-mile per hour (45 mph) wind load capacity.
- Available with eight foot (8'), ten foot (10') or twelve foot (12') sides and sliding panels (per linear foot) to be selected by the Department, as needed.
- General lighting – lighting for the tents shall be at a minimum light level of 50 foot candles for the entire interior of the tent.

Lot #2 – Clear Span Rigid Frame Tents

- Clear Span Rigid Frame, Hoecker, Losberger, Roder USA, or equivalent.
- Box beam galvanized steel or aluminum frames with flame retardant PVC fabric tops.
- Structural members 16.5' o/c with steel anchor plates.
- White translucent fabric roof panels with 10' or 12' side panels (per linear foot).
- Minimum sixty mile per hour (60 mph) wind load capacity.
- General lighting – lighting for the tents shall be at a minimum light level of 50 foot candles for the entire interior of the tent.

C. **TENT AND LIGHTING INSTALLATION SCHEDULE**

- Tent and tent lighting installation shall be coordinated with Department representatives.

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- All tent and lighting set-up shall begin August 1st of each year and installation must be complete no later than 8:00 a.m. ten (10) days prior to the opening day of each State Fair held during the Term of the contract. In the event installation is not complete on or before the date referenced herein, the Department may, at its discretion, invoke payment of the performance bond pursuant to Section 2.2.6 of this IFB.
- Tent removal may begin on the day immediately following the day the State Fair closes and all tents and lighting shall be removed from the Fairgrounds no later than ten (10) days after the last day of each State Fair held during the Term of the contract.

2.2.2 LOT #3 – TABLES AND CHAIRS

A. TABLE AND CHAIR DETAIL

The selected contractor shall provide tables and chairs for rental for the annual 12 day New York State Fair that meet the following specifications:

- Banquet style tables - eight foot (8') length (approximate quantity of 420). Table tops may be wood or plastic. Wood tables must have protective edges. All table framing should be steel construction.
- Banquet style tables - six foot (6') length (approximate quantity of 170). Table tops may be wood or plastic. Wood tables must have protective edges. All table framing should be steel construction.
- Metal folding chairs (approximate quantity of 4,300). Chairs should at a minimum have a steel construction of the frame. Seats may be plastic.

All tables and chairs provided must be in excellent condition, clean, and ready for immediate use. All tables must be free of splinters and have smooth edges and should not have scratches on the tops of the tables. All tables and chairs must be equipped with new or like-new legs. Please see Exhibit 1 for a list of tables and chairs ordered for the 2014 Fair. The number of tables and chairs to be ordered for the 2015 Fair and subsequent Fairs is subject to change at the Department's discretion. Bidders will only be paid for the actual number of tables and chairs ordered pursuant to the unit prices submitted on the Bid Form.

B. DETAILED RENTAL/DELIVERY SCHEDULE

The Department will provide the selected contractor with a delivery schedule by June 30th each year. The delivery schedule will indicate the exact quantity and type/size of tables and chairs needed for the 12 day annual New York State Fair, delivery date, delivery time, pickup date, pickup time, authorized signatory for acceptance of items delivered, and any specific instructions. The 2014 Tables and Chairs rental order is attached for your reference as Exhibit 1. The selected contractor must schedule all deliveries in advance with a designated Department representative.

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Deliveries must be made in a manner for quantities delivered to be verified by the Department. Items must also be picked up and secured and removed according to the schedule provided by the Department. Delivery of tables and chairs shall begin as early as August 1st each year.

An initial order of tables shall be delivered for use for pre-Fair setup as early as August 1st each year. Tables used for pre-Fair setup shall be moved by the selected contractor to different locations during the Fair as directed by the Department. No additional rental fees shall be charged for moving tables to different locations on the Fairgrounds.

All tables and chairs that are rented for the entire 12 days should be picked up and secured by the selected contractor no later than 10:00 pm on the last day of the Fair. The selected contractor shall remove all tables and chairs from the fairgrounds no later than ten (10) days after the last day of the Fair.

C. COUNT VERIFICATION

An authorized representative from the selected contractor and an authorized representative from the Department must verify counts at the time of delivery and again at the time of pick up. The selected contractor may not drop off or pick up items until verified (counted) by both parties and documented in a written delivery and pick up receipt signed by an authorized representative of both the Department and the selected contractor.

Any discrepancies in the number of items delivered and picked up shall be reconciled within thirty (30) days after the conclusion of the Fair. Replacement costs for missing items shall be replaced at the following rates:

- 8' table - \$100.00
- 6' table – \$ 75.00
- Metal frame folding chair - \$10.00

Notwithstanding the foregoing, the Department is not responsible for any missing items that were not properly accounted for by both parties upon delivery and pick up with a written receipt signed by an authorized representative of both parties.

D. STORAGE UNIT AND PALLET JACK

The selected contractor will be required to provide two (2) lockable sealed storage trailers on the Fairgrounds for storage of tables and chairs when they are not in use. These trailers shall be kept on the Fairgrounds at all times from the Monday prior to the start of the Fair through the final pick up. The Department will designate a location on the Fairgrounds for the trailers. The selected contractor will also be required to provide a pallet-jack for the Department's use at no additional cost. The pallet-jack must be in excellent condition and accompany the first delivery. The pallet-jack will be returned with the last pick up.

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2.2.3 STAFFING DURING EVENT

The selected contractor must either have a trained and competent employee physically present on the State Fairgrounds from 8:00 am to 10:00 pm each day of the State Fair or be able to respond to the Fairgrounds within a one (1) hour period to address any issues that may arise. The selected contractor shall provide a 24-hour emergency phone number and shall be “on-call” ten (10) calendar days prior to the opening day of each State Fair, during the twelve (12) day Fair, and ten (10) calendar days after the last day of the Fair.

The selected contractor will be required to provide staffing for installation and removal of all tents, tent lighting, and delivery and set-up of tables and chairs and pick up/removal of same. The selected contractor shall also provide staffing during each day of the Fair for opening all Clear Span tents starting at 8:00 am each morning and closing all Clear Span tents starting at 10:00 pm each evening during the Fair.

The selected contractor will be required to provide staffing for installation of any additional tents requested by the Department and staffing for opening and closing any additional tents requested during the Fair as directed by the Department. The selected contractor must install such tent or tents, as requested by the Department, within twelve (12) hours from the request.

2.2.4 DEPARTMENT PROVIDED AT NO COST

- Twenty four hour access to the Fairgrounds and sufficient parking space to accommodate the selected contractor’s office, storage for spare and repair parts and cleaning equipment.
- Radio communication with Department employees.
- Electrical power and hook-ups for all tent lighting.
- Credentials for the selected contractor’s employee(s) performing these duties.
- A designated contact for coordinating the delivery of all items (tents, tables and chairs)
- A location for the storage of the items (trailer) for the tents, tables and chairs
- A list of dates/times/locations where the tents, tables and chairs must be delivered and picked up
- One Golf Cart/Service permit (with approved liability insurance provided by vendor).

2.2.5 ANNUAL TIME-LINE FOR SET-UP AND INSTALLATION

June 30 th each year	Department provides final count of needs for tents, tables, & chairs.
2 nd week of July	Mandatory meeting at NYS Fairgrounds with vendor to review order.
August 1 st	Vendor to begin installation of tents and lighting. Vendor to provide initial order of tables/chairs.
10 days prior to start of Fair	All tents and lighting must be installed. Vendor shall provide the Department a 24-hour emergency phone number and shall be

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“on-call” to address any issues that may arise during set up. Additional tents requested by the Department must be installed within twelve (12) hours of request.

During NYS Fair

Vendor must either have a trained and competent employee physically present on the State Fairgrounds from 8:00 am to 10:00 pm each day of the State Fair or be able to respond to the Fairgrounds within a one (1) hour period to address any issues that may arise. Vendor shall also provide staffing during each day of the Fair for opening all Clear Span tents starting at 8:00 am each morning and closing all Clear Span tents starting at 10:00 pm each evening during the Fair. Vendor shall also provide staffing for installation of any additional tents requested by the Department and staffing for opening and closing any additional tents requested during the Fair as directed by the Department. Additional tents requested by the Department must be installed within twelve (12) hours of request.

Last Day of NYS Fair

All tables and chairs that are rented for the entire 12 days shall be picked up and secured by Vendor no later than 10:00 pm.

10 days after last day of Fair

All tents, lighting, tables & chairs must be removed from the NYS Fairgrounds.

September 30th

All stakes, if used, must have protective caps and all stake holes shall be filled upon removal with the same material in which the stake was placed.

2.2.6 PERFORMANCE BOND

The successful bidder shall provide, within fifteen (15) days of award of the contract or along with a signed copy of the contract, a performance bond payable to the **State of New York, Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235**, which guarantees performance of all terms and conditions of the contract. The performance bond shall specifically cover the performance of the contract according to its terms and conditions. This performance bond shall be issued by a surety company authorized to do business in the State of New York and who is listed by the U.S. Treasury Department’s list of approved sureties, as published in Circular 570 (available on the internet at <http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>), as of the bid date. The performance bond shall be issued in an amount equal to 100% of the contract amount and shall be dated concurrent to, or subsequent to, the date of the contract and shall be maintained in full force and effect for sixty days after contract expiration. The performance bond shall name as beneficiary the State of New York, Department of Agriculture and Markets, and may be invoked to the benefit of the State of New York, Department of Agriculture and Markets, upon

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delivery of a certified statement to the surety company that the **Contractor** has failed to perform pursuant to the terms and conditions of its contract with the **Department**.

3. BID SUBMISSION

3.1 SUBMISSION TIMELINE

All bid submission documents required to be responsive for bid evaluation must be received by the Department no later than 3:00 PM on April 29, 2015 in order to be considered. 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 IFB must be received by 3:00 PM on April 13, 2015. Questions must be submitted in writing via email to Judy Giovannetti at procurement.info@agriculture.ny.gov. Please list "TENTS, TENT LIGHTING, TABLES & CHAIRS IFB#0124" in the subject line.

A Question and Answer document will be posted to the Department website: www.agriculture.ny.gov under "Funding Opportunities" no later than April 17, 2015. No individual written responses will be provided.

Any revisions to this invitation will be posted on the Department's website, www.agriculture.ny.gov under "Funding Opportunities". All bidders are responsible for keeping informed of any revisions to this invitation. All questions and answers shall be incorporated into the IFB 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, or at the following mailing address: New York State Department of Agriculture and Markets, Fiscal Department, Attn: Judy Giovannetti, 10B Airline Drive, Albany, New York, 12235.

3.2 SUBMISSION METHOD

Facsimiles or emailed copies are not acceptable. Materials received after the due date/time shall be returned unopened to the sender. No supplemental submissions or amendments to the bid response will be accepted thereafter.

Mail or Hand-Deliver a Bid Response in a sealed envelope Containing:

1. **one (1) original paper version of the Bid Form plus two (2) copies, all submission documents required to be submitted at the time of bid submission** with original signatures where required, labeled **BID RESPONSE – TENTS, TENT LIGHTING, TABLES & CHAIRS IFB#0124: DO NOT OPEN**.
2. MWBE/EEO Documents labeled **MWBE/EEO DOCUMENTS - TENTS, TENT LIGHTING, TABLES & CHAIRS IFB#0124: DO NOT OPEN**.

To the following address:
New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive

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Albany, New York 12235
ATTN: Judy Giovannetti, IFB#0124

3.3 MINIMUM QUALIFICATIONS

To be considered, each bidder shall:

- 1) Certify that the bidder is currently providing tents, tables, and chairs, rental, installation, maintenance and removal services similar in scope sought by this invitation and has done so continuously for the previous three (3) calendar years preceding submission of its bid.
- 2) Certify that the bidder owns or has access to the tents, tables, and chairs, that meet the specifications in Sections 2.2.1 and 2.2.2 of this IFB. Bidder shall provide photos and specifications of the tents, tent lighting, tables and chairs to be provided with submission of its bid.
- 3) Certify that all tents, tent installation and tent operation complies with “Subpart 45-5 *Viewing Stands and Tents*” of Title 12 of the New York Code of Rules and Regulations, as amended, administered by the New York State Department of Labor available at the following internet address: http://labor.ny.gov/workerprotection/safetyhealth/DOSH_CODE_RULES.shtm, and certify that bidder is in compliance with any permit requirements pursuant to Article 27 of the New York State Labor Law (See <http://labor.ny.gov/formsdocs/wp/shformsandpublications.shtm> for permit information and application).
- 4) Certify that all tents meet NYS Fire Code Chapter 24 Standards (2010 or most current edition), available at the following internet address: <http://publicecodes.cyberregs.com/st/ny/st/b300v10/>.
- 5) Certify that all tent fabric is flameproof, clean and in excellent condition. All tent fabric shall meet the requirements for flame resistance contained in NFPA 701, “Standard Methods of Fire Test for Flame-Resistant Textiles and Films,” as referenced in NYS Fire Code Chapter 24 (2010 or most current edition). Written certification by a nationally recognized testing laboratory that the tent material complies with the foregoing standard must be provided to the Department at the time of bid submission and annually on or before June 1st.
- 6) Certify that the bidder can meet the minimum staffing requirements set forth in Section 2.2.3 of this IFB.
- 7) Certify that the bidder will provide two (2) lockable sealed storage trailers on the Fairgrounds for storage of tables and chairs when they are not in use. These trailers shall be kept on the Fairgrounds at all times from the Monday prior to the start of the Fair through the final pick up. The Department will designate a location on the Fairgrounds for the trailers. The selected contractor will also be required to provide a pallet-jack for the Department’s use at no additional cost. The pallet-jack must be in excellent condition and accompany the first delivery. The pallet-jack will be returned with the last pick up. Bidder shall also provide a motorized cargo cart (ie. golf cart) or similar vehicle to access locations during the State Fair which are not accessible by motor vehicle to address any issues that may arise in a timely manner.
- 8) Certify that the bidder has billed and received payment for work the same as, or similar to, that sought by this invitation for bids in the aggregate amount of \$70,000.00 in each year of the three (3) calendar years immediately preceding submission of its bid, and;
- 9) Provide the name, address, contact person and telephone number for three (3) verifiable references. References should be customers that the bidder has provided service for within the

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last three (3) years similar in scope to the services sought by this invitation for bids along with a list of the quantity and type of tents and tables and chairs provided to the customer.

3.4 MANDATORY CONTRACT REQUIREMENTS

Each bidder must certify that, if selected, the bidder will meet the following requirements:

- 1) No other obligation or engagement, contractual or otherwise, will impact the selected contractor's ability to provide tents, tent lighting, tables and chairs and associated services at the New York State Fairgrounds during the contract period.
- 2) The selected contractor will have full control of the tents, tent lighting, tables and chairs, and associated services and assumes total responsibility for financial loss, accident, injury, or death that may occur as a result of the services provided. The contractor will 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 the selected contractor, 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.
- 3) The selected contractor will obtain and maintain a Commercial General Liability Insurance Policy from an insurance policy authorized to do business in the State of New York with a limit of not less than \$1,000,000 for each occurrence. Such insurance shall cover liability arising out of the deliberate, reckless, or negligent acts of the selected contractor, its employees, subcontractors, or subcontractors' employees.
- 4) The selected contractor will provide, within fifteen (15) days of award of the contract or along with a signed copy of the contract, a performance bond payable to the **State of New York, Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235**, which guarantees performance of all terms and conditions of the contract. The performance bond shall specifically cover the performance of the contract according to its terms and conditions. This performance bond shall be issued by a surety company authorized to do business in the State of New York and who is listed by the U.S. Treasury Department's list of approved sureties, as published in Circular 570 (available on the internet at <http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>), as of the bid date. The performance bond shall be issued in an amount equal to 100% of the contract amount and shall be dated concurrent to, or subsequent to, the date of the contract and shall be maintained in full force and effect for sixty days after contract expiration. The performance bond shall name as beneficiary the State of New York, Department of Agriculture and Markets, and may be invoked to the benefit of the State of New York, Department of Agriculture and Markets, upon delivery of a certified statement to the surety company that the Contractor has failed to perform pursuant to the terms and conditions of its contract with the Department.
- 5) The selected contractor agrees to comply with "Appendix A, Standard Clauses for New York State Contracts," a copy of which is included in the Submission Documents.

3.5 BID FORM

All bids must be submitted on the "Bid Form" included in the Submission Documents section.

3.6 SUBCONTRACTING

NYS Department of Agriculture and Markets (AGM) will contract only with the successful Bidder who is the Prime Contractor. AGM considers the Prime Contractor, the sole Contractor with regard

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to all provisions of the solicitation and the contract resulting from the solicitation. If subcontractors are used it shall be understood that the bid price includes the cost of the subcontractor(s) and no additional markups will be allowed. No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this IFB or the resultant contract. The Contractor accepts full responsibility for the actions of any employee or subcontractor/subcontractor's employee(s) who carry out any of the provisions of any contract resulting from this IFB. The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the work in accordance with the contract. The Contractor shall coordinate and control the work of the subcontractors. The Contractor shall be responsible for informing the subcontractors of all terms, conditions, and requirements of the contract documents.

Contractor shall not subcontract any work required under this procurement without first obtaining prior written approval from the Department. Any proposed subcontract under this Agreement shall be provided to the Department in writing on or before the second week of July each year, and shall be approved in writing by the Department, and shall clearly describe the goods or services to be provided and the total cost of such goods or services. Subcontracts for services only shall separately state the rate of compensation on a per-hour or per-day basis. The Contractor shall promptly furnish information as requested by the Department concerning the proposed subcontractor's ability and qualifications.

3.7 PRICE ADJUSTMENT

The bid prices agreed upon in the contract may be increased or decreased by the same percentage as the change in the U.S. city average, Consumer Price Index (All Items) for All Urban Consumers (CPI-U) during the 12 calendar months ending May 31st 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 June 1st 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. EVALUATION

4.1 CONSIDERATION

For a bidder to be eligible for consideration, it must meet the Minimum Qualifications. For the bid response to be evaluated, the bidder must certify that it will meet the Mandatory Contract Requirements.

4.2 DETERMINATION OF BID AWARD

The contract will be awarded to the lowest responsible bidder with the lowest Aggregate Final Rating Score pursuant to the Rating Form attached as Exhibit 2.

In the event of a tie for the lowest Aggregate Final Rating Score, the bidder who is part of the tie with the lowest Base Bid price for the clear span tents will be considered the winning bidder. In the event

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that multiple bidders have identical Aggregate Final Rating Scores and identical Base Bid prices for the clear span tents, the winning bidder will be determined by coin flip.

5. CONSIDERATIONS RELATED TO THIS PROCUREMENT

5.1 DEPARTMENT'S RESERVATION OF RIGHTS

The Department reserves the right to:

- Reject any or all proposals received in response to the IFB;
- Withdraw the IFB at any time, at the agency's sole discretion;
- Make an award under the IFB in whole or in part;
- Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
- Seek clarifications and revisions of proposals.
- Use proposal information obtained through site visits, management interviews and the 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 agency's request for clarifying information in the course of evaluation and/or selection under the IFB;
- Prior to the *bid opening*, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;
- Waive any requirements that are not material;
- Negotiate with the successful bidder within the scope of the IFB in the best interests of the State;
- Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening; 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.
- Make all interpretations of the meaning and intent of the IFB and resulting contract and the Department's interpretation is final.

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5.2 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

POLICY STATEMENT

The New York State Department of Agriculture and Markets (AGM), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority and women-owned business enterprises have opportunities for maximum feasible participation in the performance of AGM contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that AGM establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

By submission of a bid in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A, "Standard Clauses for New York State Contracts," including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the bid an equal employment opportunity staffing plan on **Form MWBE/EEO2** identifying the anticipated work force to be utilized on the Contract and if awarded a contract, will, upon request, submit to AGM, a workforce employment utilization report on **Form MWBE/EEO3**, identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-

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contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN- OWNED BUSINESS ENTERPRISES (MWBEs)

A. MWBE CONTRACT GOALS

For purposes of this procurement, AGM hereby establishes a goal of **15%** for Minority-owned Business Enterprises (MBE) participation and **15%** for Women-owned Business Enterprises (WBE) participation (collectively referred to as MWBE) for a total Contract MWBE goal of **30%**. The total Contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newycontracts.com/frontend/diversityusers.asp>. Questions regarding compliance with MWBE participation goals should be directed to the AGM Office for Minority and Women Owned Business Enterprises Designated Contacts identified in the MWBE/EEO Submission Documents.

A Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract (see clause E below) and ensure that the MWBEs utilized under the Contract perform commercially useful functions (see clause B below). Contractor agrees that AGM may withhold payment pending receipt of the required MWBE documentation.

B. COMMERCIALY USEFUL FUNCTION REQUIREMENT

Pursuant to 5 NYCRR § 140.1(f), a MWBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, a MWBE must, where applicable and in accordance with any State Agency specifications, also be responsible, with respect to materials and supplies used on the contract, for ordering and negotiating price, determining quality and quantity, and installing. A MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation. AGM will assess whether a MWBE is performing a commercially useful function by considering the following:

- (1) the amount of work subcontracted;
 - (2) industry practices;
 - (3) whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;
 - (4) the credit claimed towards MWBE utilization goals for the performance of the work by the MWBE;
- and,

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(5) any other relevant factors.

C. By submitting a bid, Bidder/Contractor agrees to the following:

(1) Breach of Contract and Liquidated Damages

In accordance with 5 NYCRR §142.13, Bidder/Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and AGM may withhold payment from the Contractor as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and, (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

(2) Utilization Plan

a. **Bidders are required to submit a completed MWBE Utilization Plan on Form MWBE/EEO4 with their bid.** The Utilization Plan shall list the MWBEs the Contractor intends to use to perform the State Contract, a description of the Commercially Useful Function the Contractor intends the MWBE to perform to meet the goals on the State Contract, the estimated or, if known, actual dollar amounts to be paid to a MWBE, and performance dates of each component of a State Contract that the Contractor intends to be performed by a MWBE. By signing the Utilization Plan, the Bidder acknowledges that the utilization of MWBEs that do not perform commercially useful functions may not be counted as meeting the MWBE goals of the Contract; and, that making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to AGM.

b. AGM will review the submitted MWBE Utilization Plan and advise the awarded Bidder of AGM acceptance or issue a notice of deficiency within twenty (20) days of receipt.

c. If a notice of deficiency is issued; Bidder agrees that it shall respond to the notice of deficiency, within seven (7) business days of receipt, by submitting to AGM a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by AGM to be inadequate, AGM shall notify the Bidder and direct the Bidder to submit, within five (5) business days of notification by AGM, a request for a partial or total waiver of MWBE participation goals on **Form MWBE/EEO5**. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

(3) AGM may disqualify a Bidder's bid as being non-responsive under the following circumstances:

- (a) If a Bidder fails to submit a MWBE Utilization Plan;
- (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- (c) If a Bidder fails to submit a request for waiver; or
- (d) If AGM determines that the Bidder has failed to document good faith efforts.

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D. Request for Waiver

(1) A Bidder who is able to document good faith efforts to meet the goal requirements, as set forth in clause E below, may submit a request for a partial or total waiver on **Form MWBE/EEO5**, accompanied by supporting documentation, at the same time it submits its MWBE Utilization Plan. If a request for waiver is submitted with the MWBE Utilization Plan and is not accepted by AGM at that time, the provisions of clauses C(2)(b& c) and C(3) above will apply.

(2) Contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to AGM, but must be made no later than prior to the submission of a request for final payment on the Contract.

(3) Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the AGM Office for Minority and Women Owned Business Enterprises Designated Contacts identified in the MWBE/EEO Submission Documents.

E. Required Good Faith Efforts

Pursuant to 5 NYCRR § 142.8, evidence of required good faith efforts shall include the following:

(1) A list of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.

(2) A list of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.

(3) Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.

(4) A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.

(5) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by AGM with certified MWBEs whom AGM determined were capable of fulfilling the MWBE goals set in the Contract.

(6) Other information deemed relevant to the request.

F. Quarterly MWBE Contractor Compliance Report

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Contractors are required to submit a Quarterly MWBE Contractor Compliance Report on Form MWBE/EEO6 to AGM by the 10th day following each end of quarter over the term of the Agreement documenting the progress made towards achievement of the MWBE goals of the Agreement. Contractors will also be required to submit utilization plans, request subcontractors, and communicate with their project manager throughout the term of the Agreement using the New York State Contract System (“NYSCS”). The NYSCS is the tool that New York State uses to monitor MWBE participation in state contracting. More information on reporting responsibilities and use of the NYSCS is included in the Submission Documents and is available on the NYCS website (<https://ny.newnycontracts.com>).

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract. **ALL FORMS ARE INCLUDED IN THE SUBMISSION DOCUMENTS AND ARE ALSO AVAILABLE AT: <http://www.agriculture.ny.gov/MWBE.html>.**

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, an unsuccessful bidder has the right to a debriefing. An unsuccessful bidder must request a debriefing within five (5) business days of receiving a notice of non-award from the Department. Bidders may request a debriefing letter on the selection process regarding this procurement by submitting a written request to Judy Giovannetti at:

NYS Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, NY 12235
Or via email: judy.giovannetti@agriculture.ny.gov

The Fiscal Contact person will make arrangements with program staff to provide a written summary of the proposal’s strengths and weaknesses, as well as recommendations for improvement. Within ten (10) business days of receipt of the request, the program staff will issue a written debriefing letter to the bidder.

5.5 BID PROTEST PROCEDURES

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

1. 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
2. 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 Judy Giovannetti at:

NYS Department of Agriculture and Markets
Fiscal Management

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10B Airline Drive
Albany, NY 12235
Or via email: procurement.info@agriculture.ny.gov

3. 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 fourteen (14) 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.
4. 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. 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. 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/>.

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

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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.

Subcontractors:

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a Department vendor responsibility review are required for a subcontractor where:

- the subcontractor is known at the time of the contract award;
- the subcontractor is not an entity that is exempt from reporting by OSC; and
- the subcontract will equal or exceed \$100,000 over the life of the contract

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 COST LIABILITY

The State of New York, the Department and the Division of the New York State Fair assume no responsibility or liability for the costs incurred by the Bidders in preparing and submitting their bids in response to this solicitation.

5.10 FREEDOM OF INFORMATION

The selected contractor's bid response and any contract resulting from this solicitation are subject to the provisions of Article 6 of New York State Public Officers Law, the Freedom of Information Law (NY FOIL). It is the responsibility of the Bidder to designate which components of the bid response are proprietary business information to be withheld from disclosure. A bidder may not designate its entire bid response as confidential, proprietary or copyrighted.

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5.11 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 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 written notice, advertisement or solicitation of the IFB 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 Bid:

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

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

5.12 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.

AGM Substitute Form W-9

Any payee/vendor/organization receiving Federal and/or State payments from the Department must complete the Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized vendor file.

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The Department is using the Substitute Form W-9 to obtain certification of a vendor's Tax Identification Number in order to facilitate a vendor's registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

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.

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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

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execution if the bidder is awarded the contract. The above forms are required to be completed and submitted after notification of selection is made and prior to contract signing.

6. REQUIRED ASSURANCES

6.1 SUBMISSION DOCUMENTS

Appendix A- Standard Clauses for all New York State Contracts WILL BE INCLUDED in the contract that results from this IFB. Bidders who are unable to complete or abide by these assurances should not respond to this request.

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.

Appendix A – Standard Clauses for New York State Contracts

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**)

MWBE/EEO Documents (Signature Required - the forms are included in the **Submission Documents** as **Attachment 7**) - The original plus two (2) copies of the completed M/WBE Documents must be mailed in a separate envelope labeled **MWBE/EEO DOCUMENTS - TENTS, TENT LIGHTING, TABLES & CHAIRS IFB#0124: DO NOT OPEN**.

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 8**)

6.2 MANDATORY REQUIREMENTS CERTIFICATION FORM

This document is in the **Submission Documents** as **Attachment 2**. It must be completed and returned with the Bid Response.

6.3 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 included in the **Submission Documents**. 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

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Agriculture and Markets, and; Appendix E “Special Conditions for Agreements New York State
Department of Agriculture and Markets.”