

INVITATION FOR BIDS

for

TRASH REMOVAL AND DISPOSAL AT THE NEW YORK STATE FAIRGROUNDS

IFB #0135

IFB Issued: February 29, 2016

Proposals Due: March 24, 2016

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 #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

Table of Contents

| | |
|---|----|
| 1. INTRODUCTION | 4 |
| 1.1 OVERVIEW..... | 4 |
| 1.2 IFB GOAL..... | 4 |
| 1.3 TERM..... | 4 |
| 1.4 IFB TIMELINE | 4 |
| 2. DESCRIPTION OF WORK TO BE PERFORMED | 5 |
| 2.1 PREMISES | 5 |
| 2.2 DEFINITIONS | 5 |
| 2.3 SCOPE OF WORK..... | 6 |
| 2.3.1 TRASH RECEPTACLES..... | 7 |
| 2.3.2 WORK SPECIFICATIONS..... | 7 |
| A. YEAR ROUND..... | 7 |
| B. FAIR TIME..... | 8 |
| C. MAINTENANCE, CLEANING AND SANITIZING..... | 9 |
| D. RECYCLING..... | 9 |
| E. DISPOSAL/"TIPPING" FEE..... | 9 |
| F. DOCUMENTATION OF SERVICE..... | 9 |
| G. PAYMENT FOR SERVICES..... | 10 |
| 3. BID SUBMISSION | 11 |
| 3.1 SUBMISSION TIMELINE..... | 11 |
| 3.2 SUBMISSION METHOD..... | 12 |
| 3.3 MINIMUM QUALIFICATIONS..... | 12 |
| 3.4 MANDATORY CONTRACT REQUIREMENTS..... | 13 |
| 3.5 BID FORM..... | 13 |
| 4. EVALUATION..... | 14 |
| 4.1 CONSIDERATION..... | 14 |
| 4.2 DETERMINATION OF BID AWARD | 14 |
| 5. CONSIDERATIONS RELATED TO THIS PROCUREMENT | 14 |
| 5.1 DEPARTMENT'S RESERVATION OF RIGHTS | 14 |
| 5.2 SUBCONTRACTING..... | 15 |
| 5.3 PRICE ADJUSTMENT..... | 16 |

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

5.4 PREVAILING WAGES RATE - PUBLIC WORKS AND BUILDING SERVICES
CONTRACTS.....16

5.5 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 ENTERPRISES16

5.6 NOTIFICATION OF AWARD.....20

5.7 DEBRIEFING PROCEDURES21

5.8 BID PROTEST PROCEDURES.....21

5.9 NEW YORK LAW.....22

5.10 REQUIRED APPROVALS.....22

5.11 VENDOR RESPONSIBILITY AND NYS VENDOR ID.....22

5.12 COST LIABILITY23

5.13 FREEDOM OF INFORMATION23

5.14 PROCUREMENT LOBBYING LAW.....23

6. REQUIRED ASSURANCES.....24

6.1 SUBMISSION DOCUMENTS24

6.2 CONTRACT DOCUMENTS AND REQUIREMENTS24

7. RECOMMENDED SUBMISSIONS24

EXHIBIT 1 – SUMMARY OF TRASH REMOVAL AND DISPOSAL SERVICES RENDERED 2014-2015

EXHIBIT 2 – RATING FORM

EXHIBIT 3 – PREVAILING WAGE RATES

EXHIBIT 4 – SAMPLE NEW YORK STATE AGM CONTRACT

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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 (12) days ending on Labor Day, and other year-round events.

The Department is seeking bids for trash removal and disposal services at the Fairgrounds.

1.2 IFB GOAL

The objective of this IFB is to retain a contractor to remove trash, including office waste, mixed waste, solid waste, cardboard only and construction and demolition waste from the property known as the New York State Fairgrounds, Town of Geddes, Onondaga County (Syracuse) New York.

1.3 TERM

The contract resulting from this IFB will be for a five (5) year term. The contract will begin on April 1, 2016 and end on March 31, 2021.

1.4 IFB TIMELINE

| | |
|--|-----------------------------|
| Publication in Contract Reporter | February 29, 2016 |
| Deadline for Submission of Written Questions | March 14, 2016 by 3:00 p.m. |
| Last update of answers or issuance of IFB Addendum | March 17, 2016 |
| Submission Deadline | March 24, 2016 by 3:00 p.m. |
| Bid Opening | March 28, 2016 |

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.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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. The annual New York State Fair is a twelve (12) day event ending on Labor Day each year. The dates for the 2016 New York State Fair are Thursday, August 25th through Monday, September 5th, 2016.

2.2 DEFINITIONS

Bidder: Shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a contract with the Department for their services a Bidder shall become a “Contractor.” See also “Contractor.”

Toter (or equivalent): Shall refer to a two-wheeled garbage container with a capacity of up to 100 gallons. Toters shall be emptied into open top roll-off containers using toter lifts. See definition for “Open Top Roll-Off Container.”

Business hours: Shall mean Monday through Friday, between the hours of 7:30 A.M. and 3:30 P.M. EST, except New York State Holidays.

Compactor: A unit that compresses or compacts material by using hydraulic force, weight or vibration. Compactors include **stationary** and **self-contained** units. All self-contained compactors provided for the compaction of wet waste shall be self-contained and water-tight. The Department shall be responsible for the construction of any concrete pads or other ancillary structures such as catwalks that are needed for stationary compactors, and the selected contractor shall be responsible for the installation of all other compactor components. Stationary compactors will be affixed to the site (NYS Fairgrounds), and the container will be separated and removed for emptying. All compactors shall be maintained in good working order and shall have no leaks, jagged edges or holes.

Construction and Demolition Debris: Uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads; and uncontaminated solid waste resulting from land clearing. Such waste includes, but is not limited to bricks, concrete and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets ten gallons or less in size and having no more than one inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above.

Contractor: Shall refer to a responsive and responsible Bidder who is awarded a Contract with the Department.

Department: Shall refer to the New York State Department of Agriculture and Markets. The “Department” may also be referred to as “AGM.”

Disposal Facility: A facility or part of a facility at which solid waste disposal occurs.

Dual Stream Recycling: Varieties of paper collected together in one recycling bin (one stream); plastic, glass and metal recyclables collected in another recycling bin (the other stream).

Food Waste: Uneaten food and food preparation wastes from residences, cafeterias, commercial establishments and institutional sources.

Haul Charge: A fee charged by the Contractor for the pick-up of a compactor or open top roll-off container, disposal of the waste and return of the compactor or open top roll-off container.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

Landfill: Landfill means land or a disposal facility or part of one where solid waste or its residue after treatment is intentionally placed and which is not a land application facility, surface impoundment, injection well or waste pile.

MWBE: Shall refer to a business certified with New York State Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.

May: Denotes the permissive in a contract clause or specification. "May" does not mean "required." Also see "Shall" and "Must."

Mixed Paper: A variety of paper including but not limited to office paper, newsprint, magazines, junk mail and paperboard products. This excludes tissue paper, toweling, paper plates and cups, wax coated corrugated cardboard and other low-grade paper products which become unusable to paper mills as a result of normal intended use.

Must: Denotes the imperative in a contract clause or specification. "Must" is synonymous with "required." Also see "Shall" and "May."

Open Top Roll-Off Container: An open top container/dumpster utilizing wheels to facilitate rolling the dumpster in place. The container is designed to be transported by roll-off trucks. Roll-offs may contain solid waste, construction and demolition debris, food waste, and recyclable material.

Prevailing Wage Rate: As part of the requirements of Article 8 (Sections 220-223) and Article 9 (Sections 230-239) of the New York State Labor Law, public work Contractors and subcontractors are required to pay laborers, workers or mechanics employed in the performance of a public work contract not less than the prevailing rate of wage and to provide supplements (fringe benefits) in accordance with prevailing practices in the locality where the work is performed. Prevailing wage requirements for this IFB are contained herein.

Recyclable or Recyclable Material: A material that has the potential to be recycled and which is pre-sorted from solid waste and not contaminated by significant amounts of residuals.

Recyclable Processing Fee: A fee charged by the Contractor for recycling material at a recycler.

Recycling: The processing of used materials into new products in order to prevent waste of potentially useful materials, reduce the consumption of fresh raw materials, reduce energy usage, reduce air and water pollution, reduce the need for "conventional" waste disposal, and lower greenhouse gas emissions compared to virgin production.

Recycling Revenue: Revenue generated from the sale of recyclable materials.

Rental Fee: A fee charged by the Contractor for the rental of a compactor or open top roll-off container.

Shall: Denotes the imperative in a contract clause or specification. "Shall" is synonymous with "required." Also see "Must" and "May."

Solid waste: All materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludge from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal but not including sewage and other highly diluted water carried materials or substances and those in gaseous form.

State: Shall refer to the State of New York. See also the definition for "Department."

Tipping Fee: A fee charged for the disposal of waste at a waste processing facility. Tipping fees may also be referred to as Disposal Fees, Dump Fees or Gate Fees.

2.3 SCOPE OF WORK

The selected contractor shall provide, deliver, and place trash collection compactors and receptacles/toters on the Fairgrounds, as directed by the Department. The selected contractor shall be responsible for maintaining, cleaning/sanitizing, and emptying the trash collection compactors and receptacles/toters, and shall provide and operate a rear loading compactor truck and toter lifts (or equivalent) as further described below.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

2.3.1 TRASH RECEPTACLES

The selected bidder shall remove garbage, trash, and solid waste, including office waste, mixed waste (food waste, bottles, cans), cardboard, and construction and demolition waste (excluding appliances), from the Fairgrounds throughout the Term of the contract. The types and sizes of trash receptacles to be provided to the Department for rental are described in Section 2.3.2 “Work Specifications.”

Service levels will depend upon the number of events and number of visitors to the Fairgrounds and will peak in August and September of each calendar year when the annual New York State Fair (State Fair) is held. During the State Fair, service shall be provided each day of the State Fair including Saturday, Sunday and Labor Day, and all trash receptacles shall be emptied at least once daily between the hours of 11:00 p.m. and 9:00 a.m., or more often if the receptacle(s) is/are full. At other times throughout the calendar year, service shall be provided Monday through Friday between the hours of 7:30 a.m. and 3:30 p.m., and trash receptacles shall be emptied within twenty-four hours from notification by the Department that a receptacle(s) is full, or pursuant to a schedule mutually agreed upon by the Department and the selected contractor.

All trash receptacles and equipment shall remain the property of the selected contractor, who shall be responsible for maintenance, repair, cleaning/sanitizing of all contractor-provided receptacles and equipment at the contractor’s sole cost and expense. All trash receptacles shall be clearly marked with the receptacle’s capacity, tare weight (if applicable) and a unique identification number.

2.3.2 WORK SPECIFICATIONS

The selected contractor shall provide the following:

A. YEAR-ROUND

1. Trash Receptacles – Types and Sizes

- (a) Open Top Roll-Off Containers
 - 20 cubic yards
 - 30 cubic yards
- (b) Compactors – Multicycle 3 phase, 208 volts
 - 8 cubic yard stationary compactor
 - 35 cubic yard self-contained compactor
- (c) Toters (or equivalent)
 - 96 gallon capacity (90 to 100 gallon acceptable)

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

2. Quantities, Sizes, Locations and Placement

- The Department will inform the selected contractor of the quantities, sizes and specific locations on the Fairgrounds of required trash receptacles.
- The unit(s) ordered by the Department shall be delivered to the Fairgrounds within twenty-four (24) hours of the request.

3. Placement, Removal, Relocation

- The selected contractor shall empty and relocate receptacles within twenty-four (24) hours of receipt of notification from the Department, Monday through Friday between the hours of 7:30 a.m. and 3:30 p.m.
- ***The monthly rental cost for the trash receptacles referenced in Section 2.3.2 A above shall include the rental, delivery, installation, maintenance, repair and/or replacement, and cleaning and sanitizing of the units ordered.***

B. FAIRTIME

1. Trash Receptacles – Types and Sizes

- (a) Open Top Roll-Off Containers
- 15 cubic yards
 - 20 cubic yards
 - 30 cubic yards
- (b) Compactors – Multicycle 3 phase, 208 volts
- 35 cubic yard self-contained compactor
- (c) Toters (or equivalent)
- 96 gallon capacity (90 to 100 gallon acceptable)
 - Lifts for toters (or equivalent)

2. Equipment and Driver

- One (1) rear loading compactor truck, minimum 25 cubic yard capacity, with driver, shall be provided on the Wednesday following the last day of each State Fair held during the term of the Agreement for up to three (3) consecutive days, as required by the Department.

3. Quantities, Sizes, Locations and Placement

- The Department will inform the selected contractor of the quantities, sizes, and specific locations on the Fairgrounds of required trash receptacles by May 1st of each year during the term of the Agreement for the needs for the State Fair. All trash receptacles ordered must be delivered and placed on the Fairgrounds no later than fourteen (14) days prior to the first day of each State Fair held during the term of this Agreement.
- During the 12 days of the annual State Fair, the selected contractor must provide 24 hour emergency contact information and support.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

4. Placement, Removal, Relocation and Hours of Service

- During the 12 days of the State Fair each year, all trash receptacles shall be emptied and relocated by the selected bidder at least once daily including Saturdays, Sundays, and Labor Day, *between the hours of 11:00 p.m. and 9:00 a.m., or more often if the receptacle(s) is/are full.*
- *The per unit rental cost for the trash receptacles referenced in Section 2.3.2 B above shall include: (a) the rental, delivery, and installation of the units ordered for fourteen (14) days prior to the first day of each annual State Fair held during the Term of the Agreement, during the twelve (12) days of the State Fair, and for fourteen (14) days following the last day of each State Fair held during the Term of the Agreement; and, (b) maintenance, repair and/or replacement, cleaning and sanitizing of the units ordered.*

C. MAINTENANCE, CLEANING AND SANITIZING

- The selected bidder shall maintain, repair, replace if necessary, clean and sanitize all trash receptacles provided to the Department. Repair and replacement, if required, shall be completed within twenty four (24) hours after notification is received from the Department, *except* during the State Fair when the selected bidder's service personnel shall arrive at the Fairgrounds within one (1) hour from notification and, if repair is not possible to complete within two (2) hours, the selected contractor shall replace the trash receptacle(s) or lift(s).
- All trash receptacles shall be rinsed and sanitized prior to being placed on, or returned to, the Fairgrounds.

D. RECYCLING

The selected contractor shall recycle "recyclable material" and shall receive a "recyclable processing fee" from the Department for recycling "recyclable material" at a recycler. The Department shall receive 100% of the "recycling revenue" generated from the sale of "recyclable materials" minus the contractor's "recyclable processing fee" as set forth on the "Bid Form" included in the Submission Documents packet.

E. DISPOSAL/ "TIPPING" FEE

The selected bidder will be reimbursed for the disposal or "tipping" fee at actual cost upon submission of required supporting documentation as set forth in Section 2.3.2 G of this IFB, "Payment for Services." A copy of the annual agreement between the selected contractor and the owner of the disposal site must be provided to the Department on or before January 1st each year and at any time there is a rate change.

F. DOCUMENTATION OF SERVICE

- (a) (i) Initial placement of all open top roll-off containers and compactors, at locations determined by the Department, shall be documented by the Department and the selected contractor. Documentation must include the type and size of each trash receptacle

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

provided, location on the Fairgrounds, capacity, tare weight if applicable, identifying number, description of condition and verification of operation.

(ii) Initial delivery of toters (or equivalent) and lifts shall be documented by the Department and the selected contractor. Documentation shall include the quantity and identification number of each toter (or equivalent) and the quantity, identification number, location on the Fairgrounds, description of condition and verification of operation of each toter lift.

(iii) All initial documentation shall be signed and dated by a representative of the selected contractor and the Department. This signature must be obtained during normal business hours (Monday through Friday, 7:30 a.m. – 3:30 p.m.). If the item is being re-delivered for additional use and being delivered prior to or after the business hours referenced herein, the ticket must be left in the “lock box” located on the exterior of the Maintenance Office building on the Fairgrounds.

(b) The selected bidder shall also document the provision of service as follows:

(i) *other than* during the State Fair by delivery to the Maintenance Office **before** removal of any receptacle, a copy of a “pull ticket” or similar document identifying the selected contractor, the date and time, the selected contractor’s driver’s name and commercial driver’s license number, the truck number and truck license tag number and the location of the receptacle to be emptied. This ticket must be delivered to the Maintenance Office on the Fairgrounds during normal business hours or placed in the “lock box” located on the exterior of the Maintenance Office outside normal business hours. Upon relocation of the receptacle, the selected contractor’s driver shall deliver to the Maintenance Office a copy of the scale ticket or similar document obtained from the Disposal Facility where the trash receptacle was emptied showing the name and physical location of the Disposal Facility, the date and time of weighing, identification on the ticket of the vehicle weighed and the weight of the truck, and

(ii) during the State Fair by providing the information set forth in (i) above **except** that documentation for service provided shall be delivered to the Maintenance Office by 12:00 p.m. following the day service was provided.

G. PAYMENT FOR SERVICES

The Department will pay monthly for services provided by the selected contractor in the preceding month *provided that* the selected contractor submits an itemized invoice to the Department not later than the fifth day of the month showing the dates, times and locations of trash receptacles serviced and a copy of the invoice provided to the selected contractor from the Disposal Facility operator showing the disposal or “tipping” fee charged for each trash receptacle emptied. Copies of the disposal “tickets” must be provided which lists the amount of the disposal.

The selected contractor will be reimbursed for the disposal or “tipping” fee at actual cost. A copy of the annual agreement between the selected contractor and the owner of the Disposal Facility must be provided to the Department on or before January 1st each year and at any time there is a rate change.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

If the itemized invoice contains any charges which are not supported by the documentation set forth above, the Department will reduce the total invoice amount by the amount of the undocumented charges and pay the invoice in the reduced amount.

Payment for invoices submitted by the selected contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Department, in the Department's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The selected contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us, or by telephone at 518-474-4032. By submitting a bid, the selected contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Department has expressly authorized payment by paper check as set forth above.

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 March 24, 2016 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 March 14, 2016. Questions must be submitted in writing. Email is preferred and should be directed to Judy Giovannetti, the designated contact for this procurement, at procurement.info@agriculture.ny.gov. Please list "TRASH REMOVAL AND DISPOSAL SERVICES IFB#0135" in the subject line. In the alternative, questions may be mailed to: NYS Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, NY 12235 Attn: Judy Giovannetti (IFB#0135 "TRASH REMOVAL AND DISPOSAL SERVICES").

A Question and Answer document will be posted to the Department website at: <http://www.agriculture.ny.gov/RFPS.html> under "Current Funding Opportunities" no later than March 17, 2016. No individual written responses will be provided.

Any revisions to this IFB will be posted on the Department's website, under "Current Funding Opportunities" at <http://www.agriculture.ny.gov/RFPS.html>. All bidders are responsible for keeping informed of any revisions to this IFB. 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. You may also contact Judy Giovannetti at the mailing address noted above.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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 one package containing the following three separately labeled envelopes:

1. **Minimum Qualifications and Required Forms and Assurances:** Original plus two (2) paper copies of the Minimum Qualifications and Required Forms and Assurances should be mailed in a separate envelope labeled “IFB #0135 Trash Removal and Disposal Services - Minimum Qualifications and Required Forms and Assurances - Do Not Open” and must include:

- All required documentation to demonstrate that the Bidder meets the Minimum Qualifications set forth in Section 3.3 of this IFB; and
- All Forms and Assurances located in the Submission Documents packet (which follows the Exhibits), including original signatures, where necessary.
 - Submission Documents Checklist
 - Mandatory Contract Requirements Certification Form (Original Signatures)
 - Non-Collusive Bidding Certification (Original Signatures)
 - MacBride Nondiscrimination Certification Form (Original Signatures)
 - Procurement Lobbying Law Forms (Original Signatures)
 - Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)

2. **Bid Form:** Original plus two (2) paper copies of the completed Bid Form cost proposal located in the Submission Documents packet (which follows the Exhibits), should be mailed in a separate envelope labeled “IFB#0135 Trash Removal and Disposal Services – Bid Form Cost Proposal - Do Not Open” and must include the following outlined below:

- Bid Form and Subcontracting Form with additional pages, if required (Original Signatures)

3. **MWBE/EEO Documents:** Original plus one (1) paper copy of the completed MWBE/EEO Documents located in the Submission Documents packet (which follows the Exhibits), should be mailed in a separate envelope labeled “IFB#0135 Trash Removal and Disposal Services - MWBE/EEO Documents – Do Not Open.”

To the following address:

New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: Judy Giovannetti, IFB#0135

3.3 MINIMUM QUALIFICATIONS

To be considered, each bidder shall:

- 1) Demonstrate that the bidder presently holds a valid Waste Transporter Permit issued by the New York State Department of Environmental Conservation (DEC).

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

- 2) Demonstrate that the bidder has billed and received payment for work the same as, or similar to, that sought by this invitation for bids having a billed value to at least one customer of \$100,000.00 or more in a consecutive twelve (12) month period within the last three (3) years.
- 3) Provide a listing of all waste processing or recycling facilities where materials will be delivered pursuant to this engagement.
- 4) Provide the name, address, and contact person for three (3) verifiable references. References must be customers that the bidder has provided service for within the last three (3) calendar years preceding submission of this bid, similar in scope to the services sought by this invitation for bids. References will be contacted by the Department. The bidder is solely responsible for the availability of the references provided.

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 trash removal and disposal services at the New York State Fairgrounds during the contract period.
- 2) The selected contractor will have full control of the trash receptacles, equipment (trucks and drivers), 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 the following policies 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.
 - Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile, including owned, leased, hired and non-owned automobiles.
 - Worker's Compensation and Disability Insurance – Statutory limits.
- 4) The selected contractor agrees to comply with "Appendix A, Standard Clauses for New York State Contracts," a copy of which is included in the sample New York State AGM contract attached to this IFB as Exhibit 4.

3.5 BID FORM

All bids must be submitted on the "Bid Form" included in the Submission Documents packet (which follows the Exhibits). The Bid Form must not be altered in any way. **DO NOT INCLUDE THE**

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

DISPOSAL OR “TIPPING” FEE IN YOUR COST. Per Section 2.3.2 E of this IFB, the selected bidder will be reimbursed for the disposal or “tipping” fee at actual cost upon submission of required supporting documentation as set forth in Section 2.3.2 G of this IFB, “Payment for Services.”

Please see Exhibit 1 for a summary of trash removal and disposal services rendered in 2014 and 2015. **Please note: This data is provided for informational purposes only and is subject to change in subsequent years depending on the Department’s needs at the Department’s sole discretion. Vendors will only be paid for the actual quantity of trash receptacles ordered and hours worked. Prices bid on the Bid Form shall be honored throughout the term of the awarded contract subject to any price adjustment pursuant to Section 5.3 of this IFB irrespective of the number of trash receptacles ordered or number of hours required. The Department makes no representation that past service levels indicate the level of service to be provided during the Term of the Agreement.**

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 year-round unit bid price for the rental of 30 cubic yard open top roll-off containers will be considered the winning bidder. In the event that multiple bidders have identical Aggregate Final Rating Scores and identical year-round unit bid prices for the rental of 30 cubic yard open top roll-off containers, 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;

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

- 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 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;
- 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; and
- Make all interpretations of the meaning and intent of the IFB and resulting contract and the Department's interpretation is final.

5.2 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 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.

5.3 PRICE ADJUSTMENT

The prices agreed upon in the contract on the Bid Form 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 March 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 March 31st 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.

5.4 PREVAILING WAGE RATE - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS

Prevailing Wage Rate as part of the requirements of Article 8 (Sections 220-223) and Article 9 (Sections 230-239) of the New York State Labor Law, requires public work contractors and subcontractors to pay laborers, workers or mechanics employed in the performance of a public work contract not less than the prevailing rate of wage and to provide supplements (fringe benefits) in accordance with prevailing practices in the locality where the work is performed.

Work being bid is subject to the prevailing wage rate provisions of New York State Labor Law Article 9 Sections 230-239. Any federal or State determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful" may be grounds for a determination of vendor non-responsibility and rejection of bid. The selected contractor shall comply with the prevailing wage rates set forth in PRC# 2016900190 attached to this IFB as Exhibit 3. All invoices submitted must include supporting documentation that the selected contractor has complied with the prevailing wage rates for this Agreement.

5.5 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

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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 subcontractors 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.newnycontracts.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.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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,
- (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

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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.

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.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

- (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

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>.**

5.6 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.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

5.7 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: procurement.info@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.

5.8 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
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/>.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

5.9 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.

5.10 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.

5.11 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.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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).

5.12 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.

5.13 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.

5.14 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 5 -- "Summary of the Department's Policy on State Finance Law Section 139-j and Section 139-k"). An offerer/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 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 members to receive contacts pertaining to this Bid:

Judy Giovannetti
New York State Department of Agriculture & Markets
Division of Fiscal Management
10B Airline Drive

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

Albany, New York 12235
E-mail: procurement.info@agriculture.ny.gov

6. REQUIRED ASSURANCES

6.1 SUBMISSION DOCUMENTS

The documents listed below are included in the **Submission Documents** packet, 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 of this IFB, “Submission Method” for more information on how to package your proposal. The following forms must be completed and returned with the Bid Response:

- **Bid Form and Subcontracting 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**)
- **MWBE/EEO Documents** (Signature Required - the forms are included in the **Submission Documents as Attachment 7**)
- **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 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 IFB as Exhibit 4. 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.”

7. 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.

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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.

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

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

- **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 with 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

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0135: TRASH REMOVAL AND DISPOSAL AT THE NYS FAIRGROUNDS

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