



INVITATION FOR BIDS

for

**ELECTRIC SCOOTER, WHEELCHAIR, STROLLER, AND WAGON
RENTAL SERVICES FOR THE NEW YORK STATE FAIR**

IFB #0247

IFB Issued: October 23, 2020
Proposals Due: December 1, 2020

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

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1. INTRODUCTION

1.1 OVERVIEW

The Fairgrounds are located at 581 State Fair Boulevard, Syracuse (Town of Geddes, Onondaga County) New York. The property is a 375-acre site owned and operated by AGM which is home to the State Fair. The mission of the annual State Fair is to hold a multi-day exposition ending on Labor Day each year identifying, promoting and showcasing the agricultural practices, history and traditions of the State. In addition to agricultural competitions, the State Fair also hosts a 15-acre Midway.

There are approximately 600 vendors, including 200 food vendors. Entertainment is presented daily during the State Fair at festival-style outdoor venues which include Chevy Court (approximate capacity of 30,000 persons) and the Experience Stage (approximate capacity of 20,000 persons). Admission to Chevy Court and the Experience Stage are free with admission to the State Fair. In 2019, these concerts included national, regional and local touring acts and drew almost 300,000 spectators. The State Fair attracted over 1.329 million people in 2019.

It is anticipated that the 2021 State Fair will be 18 days and will commence on Friday, August 20, 2021 and end on Monday, September 6, 2021.

1.2 IFB GOAL

The objective of this IFB is to retain one contractor to provide exclusive rental of electric scooters, wheelchairs, strollers and wagons during the 2021 through 2023 State Fairs as described in detail below. Advance phone and online reservations of electric scooters only shall be accepted by the selected Contractor prior to the start of each State Fair beginning on or before June 1st each year during the Term of this Agreement. Rentals of all items including electric scooters must be made available for walk-up onsite rentals and reservations on the Fairgrounds each day of the State Fair during Fair hours as specified in Section 2.2.2 of this IFB.

1.3 TERM

The contract resulting from this IFB will commence on April 1, 2021 and end on September 30, 2023.

1.4 IFB TIMELINE

Publication in Contract Reporter:	October 23, 2020
Deadline for Submission of Written Questions:	November 9, 2020 by 3:00 p.m. (local time)
Last Update of answers or issuance of IFB Addendum at http://www.agriculture.ny.gov/RFPS.html no later than:	November 13, 2020
Submission Deadline:	December 1, 2020 by 3:00 p.m. (local time)
Bid Opening:	December 2, 2020

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 as well as many non-Fair events during the year. The mission of the annual State Fair is to hold a multi-day exposition ending on Labor Day each year, identifying, promoting and showcasing the history and traditions of the State, including agriculture. The State Fair has been charged to grow as a major driver of tourism and economic development.

The State Fair hosts a 15-acre Midway and two free music venues that hosts multiple national touring acts each day and can hold more than 30,000 and 15,000 people respectively. There are approximately 600 vendors, including 200 food vendors. Paid parking is available for approximately 20,000 vehicles as well as parking for approximately 1,000 overnight camping vehicles. The State Fair attracted more than 1.3 million people in 2019, and attendance has increased by more than 45 percent in the past five years.

The State Fair and Fairgrounds have undergone the most significant reshaping in its long history. New York State Governor Andrew Cuomo has invested more than \$120 million since 2015 to modernize and revitalize the Fairgrounds, adding a full-service RV park, a large space for the State Fair's Midway, and a new NY Experience festival grounds. The State Fair also added a fully renovated Main Gate, upgraded the Iroquois Indian Village and State Police exhibit, overhauled and expanded the Orange Lot, which can hold 7,000 vehicles, as well as paving, lighting and drainage. Anchoring the investment is the construction of the new 136,000 square foot Exposition Center. Completed in August 2018, this facility is the largest clear span Exposition Center north of New York City between Boston and Cleveland and is uniquely situated to attract events not previously accommodated by existing regional facilities, such as large car shows, major equestrian competitions, motocross races and other large-scale traveling events not currently visiting the region.

2.2 SCOPE OF WORK

2.2.1 RENTAL OF ELECTRIC SCOOTERS, WHEELCHAIRS, STROLLERS AND WAGONS

The selected Contractor shall provide rental services of mobility equipment to State Fair patrons during each day of each State Fair held during the Term of this Agreement. It is anticipated the 2021 State Fair will be 18 days and will commence on Friday, August 20, 2021 and end on Monday, September 6, 2021. Rentals shall include electric scooters, wheelchairs, strollers, and wagons. Full-day and half-day rentals shall be available for rental of electric scooters. All rental item prices shall be inclusive of the current sales tax rate of 8 percent.

The approximate total number of rentals during the 13 days of the 2017, 2018, and 2019 State Fairs is listed in the table below. The 2020 State Fair was cancelled due to the COVID-19 pandemic.

Equipment Type	2017	2018	2019
Scooter Full Day*	1911	2500	2369
Scooter Half Day**	157	326	317
Wheelchair	496	476	534
Wagon	408	539	542
Double Stroller	168	160	182
Stroller	371	364	347

* The hours for full day rentals are 7:00 a.m. to 11:00 p.m.

**The hours for half day rentals are 7:00 a.m. to 3:00 p.m. or 3:00 p.m. to 11:00 p.m.

The Contractor shall be responsible for ensuring that sufficient equipment inventory is available during each day of each State Fair held during the Term of this Agreement. Based on the anticipated increase in the

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number of days of the State Fair from 13 to 18, it is estimated the following quantities in each category will be required to accommodate State Fair patrons in 2021. Estimated 2021 quantities are based on 2019 quantities prorated for an 18-day Fair plus 10 percent to allow for growth and are provided for rating purposes only.

Equipment Type	2021 (estimated)
Scooter Full Day*	3280
Scooter Half Day**	439
Wheelchair	739
Wagon	750
Double Stroller	252
Stroller	480

* The hours for full day rentals are 7:00 a.m. to 11:00 p.m.

**The hours for half day rentals are 7:00 a.m. to 3:00 p.m. or 3:00 p.m. to 11:00 p.m.

All equipment must be clean, presentable and in safe, good working condition prior to rental to State Fair patrons. The selected Contractor must clean/sanitize mobility equipment between uses by State Fair patrons according to guidance provided by the New York State Department of Health and the CDC. The mobility equipment provided shall be available in various sizes and weight capacities to accommodate the needs of State Fair patrons.

2.2.2 RESERVATIONS AND ONSITE RENTALS

Advance phone and online reservations of electric scooters must be accepted by the selected Contractor prior to the start of each State Fair beginning on or before June 1 each year during the Term of the Agreement. The website and reservation system used by the selected Contractor to accept online reservations for this engagement must be pre-approved by AGM prior to release to the public.

Rentals of all items including electric scooters must be made available for walk-up onsite rentals and reservations from the following three locations on the Fairgrounds each day of each State Fair held during the Term of the Agreement (exact locations of displays to be determined by AGM):

Rental Locations	Approximate Dimensions of Rental Space Provided	Gate Description
Gate 1	30’w x 50’d	Inside the Main Gate entrance
Gate 3	30’w x 30’d	Pedestrian Entrance across the street from Gate 3 with access to two parking lots and ADA accessible parking
Gate 10	30’w x 50’d	Pedestrian Entrance used for general, permit and ADA accessible parking

A map depicting the gates/rental locations is attached to this IFB as **Exhibit 1**. The selected Contractor will only be permitted to use the square footage assigned by the State Fair; no additional space will be provided. The above-referenced onsite rental locations must be adequately staffed by the selected Contractor each day of the State Fair at a minimum during State Fair hours. The anticipated dates and hours of the 2021 State Fair are:

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- Friday, August 20, 2021 through Sunday, September 5, 2021 – 8:00 a.m. to 11:00 p.m.
- Monday, September 6, 2021 – 8:00 a.m. to 9:00 p.m.

Please note: Midway hours are: Monday-Thursday 10:00 a.m. – 11:00 p.m.; Friday-Sunday 10:00 am. – 12:00 midnight; and Labor Day 10:00 a.m. – 9:00 p.m.

Each location must have a clean and neat display. Signage must be clear and identify the company name. Rental prices and the cancellation policy shall be visibly displayed to patrons. The selected Contractor must comply with the State Fair's sign regulations. The Department shall have final approval of the rental display.

Any tent(s) used must be clean and have no holes or marks and adhere to tent permitting requirements as communicated by the Concession and Exhibits Department. Locations must be covered at night and all equipment secured and stacked in an orderly fashion by the selected Contractor. Tent rental along with any equipment necessary to adhere to the tent permitting requirements, including, but not limited to, exit signs, fire extinguishers, and no smoking signs, will be at the cost of the contractor. The Department will cover permitting costs.

The selected contractor is required to follow Department guidelines and pay charges for electrical needs. The Electrical Order Form will be provided to the selected contractor and must be provided to AGM by June 1 of each year during the Term of the Contract.

Setup of all equipment may begin on the Monday prior to the first day of each State Fair held during the Term of the Agreement. All equipment and displays must be removed by the selected Contractor by the Friday after the conclusion of each State Fair. Failure to remove the storage facility and all items inside within four (4) days after the last day of each State Fair held during the term of the Agreement will result in a \$250 per day fee.

Reservations may be audited at any time by the Department.

2.2.3 REPORTS AND PAYMENTS

The Contractor shall adhere to the payment terms and conditions outlined in **Exhibit 3**, Sample AGM Contract, and provide to AGM the following reports detailing the quantities rented and gross sales for all electric scooters*, wheelchairs, strollers and wagons along with payment. **NOTE: All rental prices must be inclusive of current sales tax rate of 8 percent.**

- On the 9th day of the State Fair (for Pre-Fair through Day 8 of the State Fair)
- On the 18th day of the State Fair (for Days 9-17 of the State Fair)
- The day immediately after last day of the State Fair (for Day 18 of the State Fair)

**The report should specify the number of half-day and full-day rentals of electric scooters.*

The Contractor must complete the Fair's "Percentage Summary Report" along with daily sales reports on the above reporting dates along with the payment. Discrepancies, if any, must be explained on the report.

NOTE: It is anticipated that the 2021 State Fair will be 18 days ending on Labor Day. The number of days of the State Fair is subject to change each year. In the event of a change in the number of days during the term of the Contract, payment and reports shall be due on the date that falls closest to the midpoint of the State Fair (for Pre-Fair through midpoint), the last day of the State Fair (for midpoint through the second to last day of the State Fair), and the day immediately after last day of the State Fair (for the last day of the State Fair).

The successful contractor shall conform to the Department's policies and procedures for reporting revenue sales detailed in **Exhibit 3**.

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Payments shall be made at the State Fair Licensing Office located in the Administration Building between the hours of 9:00 a.m. to 4:00 p.m. on or before the deadline. Failure to pay by the due date indicated will result in a late penalty fee equal to 10% of the invoiced amount. Payments may be made by standard business check, cashier's check, money order or credit card (or cash, in person). A copy of all documentation and State Fair invoices relating to each event shall accompany the payment. Payment shall be remitted to the State Fair's Licensing Office. A penalty of 10% of the amount of the payment may be imposed on any late payments. Payment made with a check that is returned unpaid will be considered as failure to pay and will result in the late penalty fee plus the returned check fee charged by the bank.

The Contractor understands and hereby agrees that any violation of the above terms and conditions could be considered cause for cancellation of the contract.

2.3 CONTRACTOR RESPONSIBILITIES

The selected contractor will be required to:

- Obtain credentials (parking and admission) for its employees to access the Fairgrounds during the State Fair.
- Obtain credentials for parking any trailers on the grounds during the annual State Fair. The location of the trailer(s) must be approved by AGM.
- Provide its own setup (tent, rental display, etc.) at each of the locations and any power cords for electricity/power needs (see **Section 2.2.2**—Reservations and Onsite Rentals).
- Provide a mechanism for State Fair patrons to reserve rental items in advance (both phone and website) prior to the State Fair as set forth in **Section 2.2.2** of this IFB. **The reservation and cancellation policy must indicate that a full refund will be accepted upon 24 hours advance notification.** A copy of the reservation and cancellation policy must be provided to AGM on or before June 1 each year during the Term of the Agreement.
- Remove all waste and garbage and place in provided dumpsters.
- Accept both cash and debit/credit card methods of payments for rental fees from State Fair patrons.
- Provide the State Fair administration with the name and contact information of the Manager on site during the State Fair.
- Provide uniforms for staff which are presentable and identify the company.
- Provide staff at each of the three locations to accept walk up onsite reservations and rentals.
- Provide a contact number available for Management use only during the State Fair.

2.4 DEPARTMENT RESPONSIBILITIES

The Department will provide:

- Water hookup for cleaning/sanitizing purposes
- A link on the State Fair's website directing State Fair patrons to the selected Contractor's website to reserve/rent mobility equipment

3. PROPOSAL FORMAT, CONTENTS AND SUBMISSION

3.1 SUBMISSION TIMELINE

All required documents must be received by AGM no later than 3:00 p.m. (local time) on December 1, 2020 in order to be considered. AGM reserves the right to request any missing information from those items marked with an asterisk (*) on the Submission Documents Checklist. Bidder will have three (3) business days to provide any missing information requested by AGM for those items marked with an asterisk (*) on the Submission Documents Checklist. All remaining forms and documents required to be completed after notification of selection is made shall be submitted to AGM by the selected contractor prior to execution of the contract.

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Any questions concerning this IFB must be received by 3:00 PM (local time) on November 9, 2020. Questions must be submitted in writing via email to Carrie Lindemann or Joyce Willi at procurement.info@agriculture.ny.gov. Please list "IFB #0247 – ELECTRIC SCOOTER, WHEELCHAIR, STROLLER, AND WAGON RENTAL SERVICES FOR THE NEW YORK STATE FAIR" 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 November 13, 2020. No individual written responses will be provided.

Any revisions to this invitation will be posted on the AGM 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 AGM website, please contact Carrie Lindemann or Joyce Willi 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: Carrie Lindemann or Joyce Willi, 10B Airline Drive, Albany, New York, 12235.

3.2 SUBMISSION METHOD

Facsimiles or e-mailed copies are not acceptable. Materials received after the deadline shall be returned unopened to the sender. See **Section 6.1**, Submission Documents, for information on completing a bid response.

Mail or hand-deliver a bid response in **one package containing the following two (2) separately labeled and sealed envelopes**:

Envelope 1, titled "IFB #0247 Minimum Qualifications and Forms and Assurances."

Original plus one (1) paper copy of (See **Section 6.1**, Submission Documents):

- Cover Sheet and Submission Documents Checklist
- **Attachment 2** - Mandatory Contract Requirements Certification Form (Original Signatures)
- **Attachment 3** - Non-Collusive Bidding Certification (Original Signatures)
- **Attachment 4** - MacBride Nondiscrimination Certification Form (Original Signatures)
- **Attachment 5** - Procurement Lobbying Law Forms (Original Signatures)
- **Attachment 6** - Vendor Responsibility (Original Signatures)
- **Attachment 7** – Vendor Assurance No Conflict of Interest (Original Signatures)
- **Attachment 8** – Executive Order No. 177 (Original Signatures)
- **Attachment 9** - Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)
- **Attachment 10** – Experience and References Form demonstrating proof of having met the Minimum Qualifications set forth in **Section 3.3** of this IFB.

Envelope 2, titled "IFB#0247 Bid Form/Cost Proposal – Do Not Open."

- *Original plus one (1) paper copy* of Attachment 1 - Bid Form (Original Signatures Hard Copy)
- *One (1) electronic copy* of Attachment 1 – Bid Form. Electronic media shall be submitted on a USB 2 or 3 compliant Flash Drive and clearly labeled. The electronic version of the Bid Form must be sealed within the same envelope as the corresponding hard copies. In the event that there are any inconsistencies between the electronic submissions and the hard copy submissions, or between multiple hard copy submissions, the original, wet ink, hard copy will be deemed controlling by AGM when reviewing each Cost Proposal.

Place the two (2) envelopes described above into one package and mail or hand-deliver to:

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New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: Carrie Lindemann or Joyce Willi (IFB#0247)

3.3 MINIMUM QUALIFICATIONS

Bidders are advised that AGM's intent is to ensure that only qualified, responsive and responsible Contractors enter into a contract to provide electric scooter, wheelchair, stroller, and wagon rental services during the New York State Fair. AGM considers the following qualifications a pre-requisite in order to be considered a qualified Bidder for the purposes of this solicitation:

1) **Experience and References.**

- a. The bidder must certify that the bidder has been in the business of providing electric scooter, wheelchair, stroller and wagon rental services continuously for the previous thirty-six (36) months preceding submission of this bid.
- b. The bidder must have experience providing electric scooter, wheelchair, stroller and wagon rental services similar in scope to this solicitation for at least two (2) festivals or events that lasted a minimum of three (3) consecutive days each within the last thirty-six (36) months preceding submission of this bid. The Bidder must provide a list of the type and quantity of electric scooters, wheelchairs, strollers and/or wagons provided to the customer, the name and location of the festival or event, and the number of days of the event. In addition, the bidder must provide the name, address, phone number and email for a contact person for each of the events/venues listed. Note that the Department will contact the references to verify the information provided; the Bidder is solely responsible for the availability of the submitted references. Please provide the above information using **Attachment 10** – Experience and References Form of the Submission Documents.

- 2) **Equipment and Rental Units.** The bidder must certify that, by the contract start date, the bidder owns or has access to the quantity of electric scooters, wheelchairs, strollers and wagons that meet the requirements in **Section 2.2** of this IFB. Bidder must provide representative photos and specifications/descriptions of the electric scooters, wheelchairs, strollers and wagons to be provided with its bid.

3.4 MANDATORY CONTRACT REQUIREMENTS

Each bidder must certify that:

- 1) The bidder has been in the business of providing electric scooter, wheelchair, stroller and wagon rental services continuously for the previous thirty-six (36) months preceding submission of this bid.
- 2) By the contract start date, the bidder owns or has access to the quantity of electric scooters, wheelchairs, strollers and wagons that meet the requirements in **Section 2.2** of this IFB.
- 3) No other obligation or engagement, contractual or otherwise, will impact the selected contractor's ability to provide electric scooter, wheelchair, stroller and wagon rental services at the New York State Fairgrounds during the contract period.
- 4) The selected 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.
- 5) The selected contractor will obtain and maintain the insurance policies that meet the requirements set forth in **Exhibit 2** of this IFB.

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- 6) 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 3**.

3.5 BID FORM/COST PROPOSAL

All bids must be submitted on “**Attachment 1** - Bid Form” included in the Submission Documents. The Bid Form must not be altered in any way. Please refer to **Section 3.2**, Submission Method, for information on how to package your proposal. Please follow the instructions in **Attachment 1** when completing your bid. Per instruction #2 on the Bid Form Instructions tab, on the “Bid Form” tab, enter bid prices in the highlighted (green) fields ONLY. All other fields are locked and calculations are formula formatted to automatically calculate results of each vendor’s bid. The cost proposal will be evaluated on the following items:

A) ITEM 1 BID – RENTAL PRICES CHARGED TO NYS FAIR PATRONS (weighted at 50 percent):

Bidder shall provide per unit rental prices to be charged to State Fair patrons for the rental of electric scooters, wheelchairs, strollers and wagons. **All rental prices must be inclusive of current sales tax rate of 8 percent.** Full-day and half-day rentals shall be available for rental of electric scooters. Bidders must not exceed the following maximum prices (**including 8 percent current sales tax rate**) for each unit:

Equipment Type	Maximum bid price including sales tax
Scooter Full Day*	\$ 75.00
Scooter Half Day**	\$ 55.00
Wheelchair	\$ 30.00
Wagon	\$ 20.00
Double Stroller	\$ 15.00
Stroller	\$ 15.00

* The hours for full day rentals are 7:00 a.m. to 11:00 p.m.

**The hours for half day rentals are 7:00 a.m. to 3:00 p.m. or 3:00 p.m. to 11:00 p.m.

Exceeding the maximum bid price on the Bid form will result in the disqualification of the bid.

Anticipated 2021 quantities are based on 2019 quantities prorated for an 18-day Fair plus 10 percent to allow for growth and are provided for rating purposes only. Bidder will only be paid for the actual number of items ordered. All unit prices shall be inclusive of all costs and profit (includes but is not limited to: Direct and Indirect Costs, Payroll, Fringe Benefits, Supplies and Materials, Equipment, Travel, Overhead and Profit). Unit prices shall be multiplied by the estimated quantities for evaluation purposes only. The prices bid shall remain fixed for the Term of the Agreement.

B) ITEM 2 BID – NET REVENUE PAID TO THE DEPARTMENT (weighted at 50 percent):

Bidders shall offer a percent of all net revenue derived from sales to be paid to the Department on the Bid Form. The percentage bid by the selected contractor on the bid form shall remain fixed throughout the contract period. Failure to enter a percentage of net revenue on the Bid Form will result in the disqualification of the bid.

Net sales are defined as revenue from sales after the deduction of sales tax. Sales tax shall be included in the prices charged to State Fair patrons and must be deducted from total sales by dividing total sales

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by 1.08% (based on current sales tax rate). The resulting amount is multiplied by the percentage rate bid to determine the amount payable to the Department.

For example, if total sales equals \$100 and percentage bid to department is 10 percent:

$\$100$ (total sales) / 1.08 (sales tax rate) = $\$92.59$ (net sales)

$\$92.59$ (net sales) x 10% (percentage bid) = $\$9.26$ (amount payable to Department)

Item 2 is calculated by multiplying **Item 1** “Subtotal Rental Prices Charged To Fair Patrons” by the bidder’s entered “Percentage of Net Sales Paid to AGM Annually.”

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 award will be made to the bidder that receives the highest number of points (highest bid score) pursuant to **Section 4.2.1** and **Section 4.2.2** based on the following two equally weighted factors: (1) the total amount that the selected contractor will charge State Fair patrons for the rental of electric scooters, wheelchairs, strollers, and wagons (Item 1) as based on estimated quantities in 2021; and (2) the percentage that the selected contractor will pay to the Department (Item 2).

As noted in the “**Attachment 1 - Bid Form**” instruction tab, bidders should enter bid prices in the highlighted (green) fields ONLY; all other fields are locked and calculations are formula formatted to automatically calculate results of each vendor's bid.

4.2.1 ITEM 1 ASSESSMENT - RENTAL PRICES CHARGED TO NYS FAIR PATRONS (50%)

Up to 50 points will be awarded for **Item 1** (the rental prices charged to NYS Fair patrons). The **lowest** total rental fees charged to the consumer (prices provided in bid multiplied by anticipated 2021 quantities) under **Item 1** will receive the full 50 points. All other bids under **Item 1** will receive points based on the lowest bid. The number of points will be determined by dividing the lowest bid by the bid being evaluated, rounding the resulting decimal to two places, and multiplying that decimal by 50.

4.2.2 ITEM 2 ASSESSMENT – NET REVENUE PAID TO THE DEPARTMENT (50%)

Up to 50 points will be awarded for **Item 2**. The **highest** amount of net revenue paid to the department under **Item 2** will receive the full 50 points. All other bids under **Item 2** will receive points based on the highest bid. The number of points will be determined by dividing the bid being evaluated by the highest bid, rounding the resulting decimal to two places, and multiplying that decimal by 50.

4.2.3 DETERMINATION OF HIGHEST BID SCORE

The bid score will be determined by adding the points awarded under the **Item 1** assessment to the points awarded under the **Item 2** assessment. The bidder with the highest aggregate bid score will be considered the winning bidder. In the event of a tie for highest aggregate score, the bidder who is part of the tie with the highest **Item 2** score will be considered the winning bidder. In the event that multiple bidders have the highest aggregate bid score and identical bids, 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 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 until the contract start date;
- 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

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

5.3 NOTIFICATION OF AWARD

The Department will notify the selected bidder in writing. Unsuccessful bidders will be notified in writing by the Department within ten business days after the award.

5.4 DEBRIEFING PROCEDURES

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

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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 a debriefing, or ten (10) business days of receipt of the notice of non-award, whichever is later. The protest letter must be filed with Carrie Lindemann 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/>.

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

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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.

Contractors awarded a contract valued at less than \$100,000 over the term of the Agreement shall complete and submit a Contractor Information Checklist.

Subcontractors:

For vendors using subcontractors, all subcontractors shall be required to complete and submit a Vendor Responsibility Questionnaire for subcontracts valued at \$100,000 or more over the term of the contract, or a Contractor Information Checklist for subcontracts valued at less than \$100,000 over the term of the contract, unless the subcontractor is an entity that is exempt from reporting by OSC (exempt entities can be found online at http://www.osc.state.ny.us/vendrep/resources_docreq_agency.htm).

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.

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 Submission Documents* Attachment 5 -- "Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence"). An

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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 member(s) to receive contacts pertaining to this Bid:

Carrie Lindemann or Joyce Willi
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

6. REQUIRED ASSURANCES

6.1 SUBMISSION DOCUMENTS

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

- **Bid Form/Cost Proposal** (Signature Required Hard Copy Only - 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**)
- **Vendor Assurance No Conflict of Interest** (Signature Required – the form is included in the Submission Documents as **Attachment 7**)
- **Executive Order No. 177** (Signature Required – the form is included in the Submission Documents as **Attachment 8**)
- **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 9**)
- **Experience and References Form** (the form is included in the Submission Documents as **Attachment 10**)

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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 Markets contract is attached to this IFB as **Exhibit 3**. 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"; 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.

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

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- **Form SI-12**– Certificate of Workers’ Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers’ Compensation Group Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

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

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

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

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

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

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

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

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

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

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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.