

FUNDING OPPORTUNITY

RFP #0265

Grants Gateway # AGM01-FTS22-2022

New York State Department of Agriculture and Markets

Request for Proposals

New York State Farm-to-School Grant Program 2022

Release Request for Proposals (RFP)	November 4, 2021
Informational Workshop	November 16, 2021
Questions and Answers Posted	November 29, 2021
Deadline for Applications	January 14, 2022
Announcement of Grant Awards	Anticipated early March



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1. APPLICATION SUBMISSION REQUIREMENTS

The New York State Department of Agriculture and Markets (the “Department”) is pleased to announce the availability of funds for Round 6 of the Farm- to-School Competitive Grants Program. Applications for funding must conform to the format provided in the Grants Gateway. **APPLICATIONS MUST BE SUBMITTED via the Grants Gateway** to be considered for funding. Faxed, mailed, or e-mailed applications will not be accepted. The name for this opportunity is “**2022 New York State Farm-To-School Program**” and the **Grant Opportunity ID is AGM01-FTS22-2022**.

Proposals are due on Friday, January 14, 2022 at 4:00 pm. Late proposals will not be accepted.

2. QUESTIONS & ANSWERS

All questions about this RFP must be submitted in writing (fax or e-mail) to:

Emily Cook
NYS Department of Agriculture and Markets 10B Airline Drive
Albany, NY 12235
Fax: (518) 457-4383
E-mail: FarmToSchool@agriculture.ny.gov

All questions must be submitted by 4:00 p.m. on November 19, 2021. Applicants must note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the program which are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will be posted in the “Funding Opportunities” section of the Department of Agriculture and Market’s website, (the Department) www.agriculture.ny.gov, along with the electronic version of this RFP. All questions and answers will be posted by November 29, 2021.

A non-mandatory “bidders conference” grant workshop will be held November 16, 2021 at 12:00pm. The workshop will be recorded and posted to the department’s website.

3. GENERAL PROGRAM INFORMATION

A. Program Description

Farm-to-School is the promotion and use of foods produced by New York State farmers in meals served in cafeterias of K-12 schools. Associations between farms and schools through the cafeteria and classroom can enhance the quality of food served. With over 700 school districts in New York State, there is the opportunity to foster relationships among New York State farmers,

food hubs, producers, processors, and distributors to benefit school-age children.

While serving New York State produced food in school cafeterias may seem simple, developing Farm-to-School connections highlights several challenges, particularly the lack of an established infrastructure or network of stakeholders that includes all the necessary parties: farmers, food service directors, food service contract management companies, food distributors, processors, agricultural organizations, and commodity organizations. Other challenges include:

- **Seasonality:** Farmers plan their crops in January, long before schools make purchasing decisions and place bids for products in the summer. In addition, the summer growing season is when schools are not in session.
- **Inconsistent quality, quantity, and sizing:** schools require produce to be served in standard units and meet specifications.
- **Processing and packaging:** schools require vegetables and fruits to be processed and packaged in standard units.
- **Bidding:** sending and reviewing bids from individual farmers can be time-consuming and complex for school procurement and fiscal staff.
- **Delivery/pick up:** distribution can be complicated when purchasing from multiple growers.
- **Lack of equipment and skills to store, prepare and serve fresh produce procured for school meals programs.**
- **Connecting diverse populations with their culturally appropriate foods.**

Governor Cuomo launched the New York State Farm-to-School Competitive Grants Program in 2015 to increase the purchase of local specialty crops by school districts and by individual schools, through developing existing strengths while building additional relationships between schools and suppliers.

B. Funding Available

A total of \$1,500,000 is available for the Farm-to-School Competitive Grants Program. This year, \$500,000 will be set aside for first-time recipients. Grant awards may range from \$25,000 to \$100,000. Applicants may apply for only one grant per funding period either individually or as a group.

4. PROJECT REQUIREMENTS

A. Project Scope

The objective of Farm to School projects must be to increase the volume and variety of New York State farm products purchased by schools/districts to be served in school meal programs. Applicants are encouraged to include other objectives including agricultural and nutrition education,

gardening activities and relationship building with local agricultural food businesses and farmers. Projects that partner with producers or food processors are strongly encouraged.

B. Eligible Applicants

Eligible applicants include:

- K-12 School Food Authorities
- Charter schools
- Not-for-profit organizations
- Indian tribal organizations

C. Ineligible Applicants:

- For-Profit organizations
- Individuals

D. Project Requirements

- School Meal Program: Feeding programs administered at the school or district level including school lunch, school breakfast, school snack and summer meals programs.

E. Project Duration

- Proposed projects must be completed within two years of the contract start date

F. Eligible Costs

Grant funds may be used for any of the following purposes directly related to completion of an eligible project, including but not limited to:

- Salaries and wages including fringe benefits
- Contractor services
- Permanent physical/structural improvements
- Insurance and permits (excluding permit to operate a farmers' market at proposed location)
- Transportation costs (including the leasing of a vehicle for a two-year period)
- Supplies and equipment*
- Food for menu development and taste-tests

*Eligible equipment costs must be directly related to the project.

G. Ineligible Costs:

Grant funds may not be used for the following:

- Purchase of regular menu food
- Purchase of cell phones
- Rent or lease
- Operational expenses
- Purchase of computer hardware and office equipment
- Salaries and wages unrelated to the proposal
- Costs associated with preparing an application
- Costs incurred prior to the award of a grant
- Costs supported in whole, or in part, by other State funding (ex. Cornell Cooperative Extensions receiving Regional Farm to School Coordinator awards may not include budget items also in the Regional Coordinator grant.)

5. HOW TO APPLY

A. APPLICATION FORMAT

Applications must be submitted through the New York State Grants Gateway. All sections of the application must be completed in order for you to be enabled to submit your digital application.

B. APPLICATION CONTENT

Applicants must respond to each of the sections as provided in the Grants Gateway to create each application to be submitted to the Department. Each application is comprised of responses to Program Specific Questions and developing a scope of work for the proposed project.

Please be advised that there are space limits for your response to each question in the online application. Evaluation of your application will be limited to review and consideration of only the information contained in your responses comprising your application. Material that is not required or otherwise specifically requested to be included in the application should not be submitted.

For information regarding how to navigate the online application, please refer to the “Grants Gateway Application Submission Instructions” document available on Grants Gateway associated with this grant opportunity or as posted on the **Department’s** web site (“[Funding Opportunities](#)” web page).

C. NUMBER OF APPLICATIONS

Applicants may apply for only one grant per funding period either individually or as a group, per funding cycle.

D. ACCESSING GRANTS GATEWAY

Applicants must be **registered and pre-qualified** in the Grants Gateway to submit an application. New York State vendors must register in the Gateway and establish users in the Grants Gateway system.

For existing NYS vendors, there is only one step. You must submit a Registration Form for Administrators identifying a Delegated Administrator responsible for managing your organization's profile and users.

To find out if your organization has already registered, enter its SFS Vendor ID number and search. If your organization is registered, the search result will include contact information for its delegated administrator, and you can contact this individual to request access to the system. If your organization is not registered, the search result will provide a link to the Request Form for Administrator, which you will need to complete and submit pursuant to the instructions provided.

If your organization is not currently doing business with NYS, you will need to submit a Substitute W-9 Form to obtain a NYS SFS Vendor ID, in addition to the Registration Form for Administrators, in order to register.

E. Registration: New York State applicants must register in Grants Gateway and establish themselves as a user in the system. To start this process, please read the instructions found here: <https://grantsmanagement.ny.gov/register-your-organization>

The following table provides a snapshot of which roles are allowed to Initiate, Complete, and Submit the Grant Application(s) in the Grants Gateway.

Role	Create and Maintain User Accounts	Initiate Application	Complete Application	Submit Application
Grantee Delegated Administrator	X			
Grantee		X	X	
Grantee Contract Signatory		X	X	X
Grantee Payment Signatory		X	X	
Grantee System Administrator		X	X	X

Please Note Waiting until the last several days to complete your application online is not recommended, as you may have technical questions. Beginning the process of applying as soon as possible will produce the best results. Late applications will not be accepted. Applications will not be accepted via fax, e-mail, hardcopy, or hand delivery.

F. Prequalification

Not-for-profit applicants must be prequalified in Grants Gateway on the due date for this application submission. Be sure to maintain prequalification status between funding opportunities. Three of a not-for-profit's essential financial documents - the IRS990, Financial Statement, and Charities Bureau filing - expire on an annual basis. If these documents are allowed to expire, the not-for-profit's prequalification status expires as well, and it will not be eligible for State grant funding until its documentation is updated and approved, and prequalified status is reinstated. For more information regarding the pre-qualification process, please view the [Vendor Prequalification Manual](#) and [Maintaining Prequalification](#) as provided by the New York State Grants Reform Team.

Public schools do not have to pre-qualify.

G. How to File the Application

After registering and prequalifying in Grants Gateway, applicants may begin the application by following these steps:

1. Log into the Grants Gateway as either a "Grantee", "Grantee System Administrator", or "Grantee Contract Signatory."
2. On the Grants Gateway home page, click the "View Opportunities" button.
3. Use the search fields to locate an opportunity; search by State agency (AGM) or by the name or partial name. Searching for the word "farm" will locate the Grant Opportunity.
4. Click on the "Search" button to initiate the search.
5. Click on the name of the Grant Opportunity (NYS Farm to School Program 2022-Round 6) from the search results grid and then select the "APPLY FOR GRANT OPPORTUNITY" button located bottom left of the Main page of the Grant Opportunity.

H. SUBMITTING AN APPLICATION

1. Only individuals with the roles "Grantee Contract Signatory" or "Grantee System Administrator" can submit an application.
2. Provide all information requested in the online Grants Gateway application form. Each question must have a response or the application will be considered ineligible.
3. Attach all required documents, photos, letters of support at the end of the online application. Letters of support are strongly encouraged. Multiple letters of support should be attached to the Grants Gateway application as one PDF. Upload letters of support into the Grants Gateway Document Folder on the 'Forms' menu. Do not include links to information.

I. TECHNICAL ASSISTANCE WITH GRANTS GATEWAY

Reference materials and videos are available for Grantees applying to funding opportunities on

the NYS Grants Gateway. Please visit the Grants Management website at the following web address: <https://grantsmanagement.ny.gov/>. and <https://grantsmanagement.ny.gov/resources-grant-applicants>. Grants Gateway Videos (are available at: <https://grantsmanagement.ny.gov/videos-grant-applicants>

Training webinars are also provided by the Grants Gateway Team. Dates and times for webinar instruction can be located at the following web address: <https://grantsmanagement.ny.gov/live-webinars> .

To reach the technical assistance team contact:

Grants Gateway Help Desk:

Email: grantsgateway@its.ny.gov (fastest method of contact)

Phone: 518-474-5595

Hours: Monday thru Friday 8am to 4pm

(User roles, prequalification, and registration questions)

6. PLAN OF WORK AND BUDGET

The Objective of the Farm-to-School Competitive Grants Program is:

To increase the volume and variety of New York State farm products purchased by schools/districts to be served in school meal programs.

A wide variety of tasks may be proposed to meet this objective. Examples of some possible tasks intended to meet this objective would be:

1. Employ a local or regional Farm-to-School coordinator.
2. Conduct training for school food authorities on how to procure New York State farm products.
3. Conduct training for food service staff on how to prepare and serve fresh produce.
4. Purchase the equipment needed to increase the capacity of a school kitchen and food service staff to prepare and serve New York State farm products.
5. Implement capital improvements to support the processing, transport and/or storage of New York State farm products.
6. Implement a school meal program that features New York State farm products.
7. Partner with local producers or processors to create new products for school menus.
8. Work with other school districts to implement a coordinated local buying program with or without the assistance of distributor or other aggregating entity such as a food hub.
9. Introduce culturally appropriate foods in school meals while creating new markets for farmers.

These “tasks” are intended as suggestions. Proposals may include these tasks or other tasks not listed to meet the overall objective. Each task must be accompanied by one or more performance

measure(s). Performance measures should be clearly defined results against which the project can be evaluated.

Budgets should include personnel services described as annual salary x % effort funded = amount budgeted. Equipment budgets do not need to include quotes or specific models but should describe type of equipment and use.

7. EVALUATION FACTORS

All eligible proposals will be competitively rated by a panel designated by the Department. A total of one hundred (100) points can be achieved from the following criteria. The evaluation panel shall consider the following factors in rating proposals:

1. Project Description (20 points)
 - a. How well does the project address the increase in volume and variety of New York State farm products procured by schools for inclusion in school meal programs? (10 pts)
 - b. How well have the anticipated positive impact on New York State farmers and students been described? (10 pts)
2. Plan of Work (25 points)
 - a. There is a clearly described plan of work including a timeline (5 pts)
 - b. How well have the short-term and long-term objectives been identified? (10 pts)
 - c. Have specific benchmarks and deliverables have been described and are achievable? (10 points)
3. Reasonableness of Cost (20 Points)
 - a. Are the project costs reasonable for the proposed activities?
 - b. Personnel costs have been entered as annual salary x % effort funded
 - c. How well does the project impact relate to the budget?
4. Quantification of Project Benefits (25 points)

How well have project benefits been quantified both as a baseline at the beginning of the project and with targeted percent increases as a result of the project:

 - a. Projected number of students educated about New York State farm products (5pts)
 - b. Projected percent increase in the availability of New York State farm products to students in schools (5pts)
 - c. Projected percent increase in the number of farmers, producers, distributors and/or food hubs supplying New York State farm products to schools (5 pts)
 - d. Projected percent increase in dollar amount of New York State farm products procured (5 pts)
 - e. Other Anticipated Project Benefits as described and identified by the

applicant. (5pts)

5. Personnel (5 points)

What degree of experience do the key persons involved in the project have in grant administration, school food procurement, school wellness committees, developing and fostering project partnerships and/or conducting outreach to New York State farmers?

6. Outside Support (5 points)

What is the level of project support from the school/school district, project partners and farmers? Are the project partners and farmers specified? Is the support they will provide specified? Are letters of support included?

Should there be areas of NYS where no funds are awarded for projects, after completing the above evaluation utilizing the Application Form and criteria set forth in it, an award up to a total of five (5) additional points per application may be given to help achieve geographic diversity for the Farm-to-School Program. The following ten (10) regions will be used for this purpose:

Western New York: Allegany, Cattaraugus, Chautauqua, Erie, Niagara

Finger Lakes: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates

Southern Tier: Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, Tompkins

Central New York: Cayuga, Cortland, Madison, Onondaga, Oswego

Mohawk Valley: Fulton, Herkimer, Montgomery, Oneida, Otsego, Schoharie

North Country: Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, St. Lawrence

Capital Region: Albany, Columbia, Greene, Saratoga, Schenectady, Rensselaer, Warren, Washington

Mid-Hudson: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester

New York City: Bronx, Kings, New York, Richmond, Queens

Long Island: Nassau, Suffolk

8. AWARD PROCESS

The Department will first screen applications to ensure that they meet eligibility requirements. All proposals deemed eligible by the Department will be evaluated by a Department panel according to the Evaluation Criteria in Section 4.1; scores will be averaged and ranked in order from highest to lowest. Those proposals receiving the highest numerical scores at or above the scoring threshold of 65, will be awarded funding until available funds are exhausted, or until all proposals are funded, whichever occurs first. Proposals from first-time awardees that score above the threshold will be funded from the separate \$500,000 pool of funds in ranked order until such time as the separate pool is exhausted. If the \$500,000 pool is exhausted, all remaining proposals from first-time awardees will continue to be funded in ranked order from the larger \$1,000,000 pool of funding as set forth above.

If a tie occurs between projects the first proposal received by the Department will be awarded. If the

two tied proposals are received at the same time a coin flip will be used to break the tie.

A contract defining all terms and conditions and responsibilities of the successful applicant shall be developed by the Department subsequent to the awarding of funds. The contract will incorporate project details and a budget approved by the Department, among its provisions. Upon agreement by the awardee and the Department to the provisions of the contract, it will be submitted for approval to the Attorney General of the State of New York and the Comptroller of the State of New York.

9. ADMINISTRATIVE REQUIREMENTS FOR CONTRACTING WITH NEW YORK STATE

A. Worker's Compensation and Disability Insurance

New York State Workers' Compensation Law sections 57 and 220 require that the Department of Agriculture and Markets not enter into a contract unless proof of Workers' Compensation and Disability Insurance in a form satisfactory to the New York State Workers' Compensation Board has been secured.

Please visit the New York State Workers' Compensation Board website: www.wcb.ny.gov, for more information. You may contact the Board's Bureau of Compliance with any questions related to workers' compensation or disability insurance at (866) 298-7830.

B. New York State Charities Bureau Registration

All not-for-profits organizations contracting with NYS or serving as a fiscal agent must be registered with the New York State Charities Bureau unless a proper exemption is obtained. All applicants must therefore provide either:

- The organization's charitable registration number and written documentation from the Office of the Attorney General that the charitable organization is currently up-to-date with its Charities Registration; or
- A statement from the applicant that the organization is exempt pursuant to one of the categories indicated on the Office of the Attorney General's Request for Registration Exemption (Schedule E). The statement must identify the specific category under which the charitable organization is exempt.

To obtain written documentation of an organization's charities registration status, or if you have questions regarding the statutory requirements for registration, contact the New York State Office of the Attorney General, Bureau of Charities Registration, 120 Broadway, New York, NY 10271-0332, or call (212) 416-8402, email charities.bureau@oag.state.ny.us or visit their website at <https://www.charitiesnys.com/home.html>

Eligible 501(c)(3) not-for-profit corporations acting as the applicant must have a New York State Attorney General Charities Bureau Registration number or an Exemption Certificate issued by the

New York State Attorney General Charities Bureau explaining why the organization is exempt from registering with the Charities Bureau.

10. REIMBURSEMENT FOR FUNDING

Once the contract is fully executed, grant funds will be disbursed on a reimbursement basis. Awardees may request, at the discretion of the Department, an initial payment of up to twenty- five percent (25%) of the total grant award.

The Department shall retain ten percent (10%) of the budget amount to be disbursed to the contractor until such time as the final report is accepted.

A New York State Claim for Payment Form must be submitted to the Department in order for the contractor to be reimbursed for funds expended.

Payment to the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner of Agriculture and Markets, at the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary state procedures and practices. The Contractor shall comply with the State Comptroller of New York's procedures to authorize electronic payments. Contractor acknowledges that it will not receive payment on any Claim for Payment Form submitted under this agreement if it does not comply with the State Comptroller of New York's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

11. REPORTING REQUIREMENTS

A. Reimbursement Reports

The Department will monitor contract performance. A Reimbursement Request Report summarizing work completed on the project shall accompany each Claim for Payment submitted for reimbursement of project expenses. A Reimbursement Request Report template will be provided by the Department to generate the reports.

B. Quarterly Progress Reports

Awarded applicants will be required to submit Quarterly Progress Reports to the Department to provide timely information on the success of the project. A Quarterly Progress Report template will be provided by the Department to generate the reports. Claim for Payment Forms submitted will not be processed for projects that are not up to date with the filing of their quarterly reports.

C. Final Report

A Final Report will be required within sixty (60) days following completion of the project. A Final Report template will be provided by the Department to generate the report. The Final Report shall include a detailed description of the work completed; an assessment of the potential for future viability of the project; and a description of problems encountered, if any, which affected completion of the project. In addition, to the Final Report, the Department reserves the right to conduct a follow-up survey of funded projects in order to determine long-term impacts.

The Department reserves the right to modify reporting requirements during the course of the project.

12. LIABILITY

The Department shall not be held liable for any costs incurred by any party for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a contract.

13. OTHER REQUIREMENTS

A. NYS OFFICE OF PARKS RECREATION & HISTORIC PRESERVATION REQUIREMENTS

Projects which include ground-disturbing activities, construction of new buildings, or modification of buildings over 50 years old will be subject to further review by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). The Department reserves the right to request such additional information as is necessary to allow OPRHP to make a determination regarding the potential impacts of the project on historical sites or artifacts and possible alternatives which avoid or mitigate adverse impacts.

B. NYS ENVIRONMENTAL QUALITY REVIEW ACT REQUIREMENTS

Some projects may be subject to review under the New York State Environmental Quality Review Act (SEQRA). The Department reserves the right to request additional information as needed to comply with SEQRA requirements.

C. MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

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

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations the Department of Agriculture and Markets (Department) is required to promote opportunities for the maximum feasible participation of New York State- certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of the Department contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Department hereby establishes an overall goal of 30 percent for MWBE participation, 15 percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15 percent for New York State-certified Women- owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that the Department may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the Department will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. [FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE]. [FOR ALL OTHER CONTRACTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.]

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and the Department may withhold payment 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.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Department's MWBE Liaison at 518-485-8740 or SupplierDiversity@agriculture.ny.gov. All MWBE Forms and Instructions are included in the Submission Documents.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- a. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department for review and approval.

The Department will review the submitted MWBE Utilization Plan and advise the respondent of the Department acceptance or issue a notice of deficiency within 30 days of receipt.

- b. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department of Agriculture and Markets, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

The Department may disqualify a respondent as being non-responsive under the following circumstances:

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

The successful respondent will be required to 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 the Department but must be made no later than prior to the submission of a request for final payment on the

Contract.

The successful respondent will be required to submit a quarterly M/WBE Contractor Compliance and Payment Report to the Department, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all the terms and conditions of [Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract 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 respondent, 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 the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, (See Submission Documents, Form MWBE EE01), to the Department with its bid or proposal.

If awarded a Contract, the respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Department on a quarterly basis during the term of the Contract.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), 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, 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 a prior criminal conviction and prior arrest.

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.

D. STUDENT MEAL CHARGE POLICY

Applicants responding to this Request for Proposals must be familiar with and in compliance with all state and federal requirements related to unpaid meal charges. This includes, but is not limited to, USDA memo SP 23-2017 “Unpaid Meal Charges; Guidance and Q&A”, March 23, 2017 and New York State Education Department Memorandum “Student Meal Charge Policy” from Paula Tyner- Doyle, Coordinator to School Food Authorities dated May 30, 2017.

E. PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Department contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are expected to consider SDVOBs in the fulfillment of the requirements of the Agreement. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

a. The Department hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, Contractor should reference the directory of New York State Certified SDVOBs found at: https://ogs.ny.gov/veterans/Docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Department’s Supplier Diversity Liaison at supplierdiversity@agriculture.ny.gov. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518- 474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Agreement.

b. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Agreement (see clause IV below).

II. SDVOB Utilization Plan

- a. In accordance with 9 NYCRR § 252.2(i), Contractor agrees to submit a completed SDVOB Utilization Plan on Form SDVOB 100 at such time as shall be required by the Department.
- b. The Utilization Plan shall list the SDVOBs that Contractor intends to use to perform the Agreement, a description of the work that Contractor intends the SDVOB to perform to meet the goals on the Agreement, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, Contractor acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of the Agreement for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs during the term of the Agreement must be reported on a revised SDVOB Utilization Plan and submitted to the Department.
- c. The Department will review the submitted SDVOB Utilization Plan and advise Contractor of the Department's acceptance or issue a notice of deficiency within 20 days of receipt.
- d. If a notice of deficiency is issued, Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Department a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify Contractor and direct Contractor to submit, within five business days of notification by the Department, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for a determination of non-responsibility by the Department.
- e. The Department may deem Contractor non-responsive under the following circumstances:
 1. If Contractor fails to submit an SDVOB Utilization Plan;
 2. If Contractor fails to submit a written remedy to a notice of deficiency;
 3. If Contractor fails to submit a request for waiver; or
 4. If the Department determines that Contractor has failed to document good faith efforts.
- f. Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Agreement pursuant to the prescribed SDVOB contract goals set forth above.
- g. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Agreement. Upon the occurrence of such a material breach, the Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

- a. Prior to submission of a request for a partial or total waiver, Contractor shall speak to the Department's Supplier Diversity Liaison for guidance.
- b. In accordance with 9 NYCRR § 252.2(m), a Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. Contractor may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Department at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with Contractor's waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- c. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Agreement. Requests for a partial or total waiver of established goal requirements may be made at any time during the term of the Agreement to the Department but must be made no later than prior to the submission of a request for final payment on the Agreement.
- d. If the Department, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101), determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to Contractor. Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals. Waiver requests should be sent to the Department.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Agreement. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Contractor's solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Department with certified SDVOBs whom the Department determined were capable of fulfilling the SDVOB goals set in the Agreement.
- (4) Information describing the specific steps undertaken to reasonably structure the Agreement scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to the Department during the term of the Agreement for the

preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 and should be completed by Contractor and submitted to the Department Supplier Diversity Liaison, by the 10th day of each month during the term of the Agreement, for the preceding month's activity to: supplierdiversity@agriculture.ny.gov.

VI. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Agreement, shall be found to have breached the contract and Contractor shall pay damages as set forth therein. ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/veterans/>

14. OTHER CONSIDERATIONS

The Department reserves the right to:

- reject any or all proposals received with respect to this RFP;
- waive or modify minor irregularities in proposals received after prior notification and concurrence of the applicant;
- utilize any or all ideas submitted in the proposals received unless those ideas are covered by legal patent or proprietary rights;
- request from an applicant additional information as deemed necessary to more fully evaluate its proposal;
- amend the program's specifications after their release, with appropriate written notice posted on the Department's website;
- select only certain portions of proposals for state funding;
- make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant; and
- negotiate the terms of the budget.
- All proposals submitted in response to this RFP will become the property of the New York State Department of Agriculture and Markets.

15. FREEDOM OF INFORMATION

All proposals submitted and all related contracts and reports may be subject to disclosure under the Freedom of Information Law.

16. DEBRIEFING

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful bidder has the right to a

debriefing regarding the reasons its application was not selected for award. Upon request, the Department will provide a debriefing to any unsuccessful applicant as to the reasons that the proposal submitted was not selected for an award. To request a review of an unsuccessful application, contact Ms. Carrie Lindemann, Division of Fiscal Management, via e-mail at procurement.info@agriculture.ny.gov. A review should be requested by an unsuccessful applicant within 15 calendar days of the date of the notice that its proposal was not selected for an award.