

FUNDING OPPORTUNITY

**Request for Applications
RFA# 0307
Grants Gateway Opportunity # AGM01-CSA23-2023**

**New York State
Department of Agriculture and Markets**

FreshConnect CSA for SNAP Program

Release Request for Applications (RFA)	July 21, 2023
Informational Webinar	August 3, 2023, 11:00 a.m.
Deadline for Questions	August 7, 2023, 4:00 p.m.
Questions and Answers Posted	August 11, 2023
Deadline for Applications	November 1, 2023, 3:00 p.m.
Announcement of Grant Awards	On a Rolling Basis



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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 the FreshConnect CSA for SNAP Grant Program.

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 “**FreshConnect CSA for SNAP**” and the **Grant Opportunity ID is AGM01-CSA23-2023**. **Applications will be accepted until 3:00 p.m. on November 1, 2023.** Late applications will not be accepted.

2. QUESTIONS & ANSWERS

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

Attn: “**FreshConnect CSA for SNAP Program**”

Matthew S. Wilson
NYS Department of Agriculture and Markets
10B Airline Drive, Albany, NY 12235
Fax: (518) 457-7076 x 1
E-mail: farmersmarkets@agriculture.ny.gov

All questions must be submitted by **4:00 p.m. on August 7, 2023**. 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 RFA, will be posted in the Funding Opportunities section of the New York State Department of Agriculture and Markets website (<https://agriculture.ny.gov>) on or before **August 11, 2023**. Such official addenda are the only authorized method used to communicate substantive information, including the clarification or modification of the timeline, terms, or other requirements of this RFA.

All applicants are responsible for keeping informed of any revisions to this invitation. All addenda shall be incorporated into the RFA which will be part of the awarded contract.

3. GENERAL PROGRAM INFORMATION

A. Program Description

The FreshConnect CSA for SNAP program will allow SNAP participants to access the popular Community Supported Agriculture model by partially subsidizing the cost of weekly share purchases. The goals of this program are to:

1. Support farmers/producers in New York by allowing greater access to their products throughout the state.

2. Allow SNAP participants in NY the opportunity to access weekly shares of fresh, locally grown produce.
3. Strengthen community bonds and raise awareness of the bounty of NY produce in regions across the state.

B. Funding Available

Awards for this opportunity will be made on a rolling basis to eligible and qualified applicants until funds are depleted. A total of \$250,000 in funding is available through this Request for Applications.

Applications may request a minimum of \$10,000 and a maximum of \$50,000.

Once a 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 25 percent of the total grant award. The Department may retain 10 percent of the budget amount to be dispersed to the contractor when the final report is completed and accepted.

C. Number of Applications

Applicants may submit one application for this funding opportunity.

D. Awards

Awards will be made to eligible, qualifying projects, in order of receipt of complete applications, until funding is exhausted. A complete application includes applicant registration and pre-qualification in Grants Gateway. If there is insufficient funding available to fund all eligible and complete applications received on the same day and time, those applications will be placed in a lottery and chosen for funding at random.

E. Match Funding Requirement

No matching funds are required.

4. PROGRAM REQUIREMENTS AND ELIGIBILITY

A. Program Scope

The FreshConnect CSA for SNAP program will provide funding to eligible organizations to partially subsidize the cost of CSA shares to Supplemental Nutrition Assistance Program participants. New York producers are eligible to receive up to 50% of the cost of a weekly share purchased by a SNAP recipient with their SNAP benefits through an awarded third-party applicant. All proposals should identify the producers being targeted and/or the beneficiaries of the reduced cost share, as applicable to the project. A maximum amount of 20% of the award may be used for administrative costs directly related to the project.

B. Applicants

1. Eligible Applicants Include:
 - Not-For-Profit Organizations
 - Indian Tribal Organizations
 - Public Educational Institutions

- Local or Municipal Governments
- 2. Applications must select a CSA program to support which already accepts SNAP benefits as a form of payment. Applicants acknowledge as a condition of submitting a proposal that they are agreeing to abide by all current and future Federal rules and regulations that govern SNAP payments for CSAs.
- 3. Community-led groups can work with an eligible fiscal sponsor to apply.
- 4. **All applicants will need to be [registered](#) and [prequalified](#) in the [Grants Gateway](#) prior to submitting their application.**
- 5. Ineligible Applicants include:
 - For-Profit Organizations
 - Individuals

Please Note: It is highly recommended that applicants register and begin the pre-qualification process in Grants Gateway as early as possible. This process may take several weeks to complete.

C. Eligible Costs

Grant funds may be used for any of the following purposes directly related to the completion of an eligible project. Eligible costs include but are not limited to:

1. Reimbursement of up to 50% of the weekly cost of CSA shares of SNAP-eligible, NY produced fresh fruit and vegetables and NY-sourced food products.
2. Administration cost of the project, limited to 20% of the total award, including:
 - Lease or rent of vehicles
 - Salaries and wages including fringe benefits directly related to the project
 - Supplies or equipment for food storage, preparation, or distribution under \$5,000 directly related to the project
 - Transportation of food

D. Non-Eligible Costs

- General purpose equipment exceeding \$5,000, eg. walk-in refrigerator
- Construction
- Purchase of cell phones
- Purchase of computer hardware and office equipment
- Salaries and wages unrelated to the proposal
- Cost associated with preparing an application
- Cost incurred prior to the award of a grant
- Costs supported in whole, or in part, by other State or federal funding
- Indirect Costs
- Food or food products sourced from outside New York State

E. Project Duration

Projects must be completed by November 15, 2024.

Awarded contract term will be August 1, 2023, to December 31, 2024.

5. HOW TO APPLY

A. Application Format

Applications must be submitted through the [Grants Gateway](#). All sections of the application must be completed to submit your digital application.

All applications must be submitted online through the Grants Gateway by **3:00 p.m. on November 1, 2023**. Applicants and not computers or servers are responsible for the timely submission of applications. Applications received after the scheduled date and time will not be accepted. Faxed, mailed or e-mailed applications will not be accepted.

B. Application Content

Applicants must respond to each of the sections as provided in the Grants Gateway. Each application is comprised of responses to Program Specific Questions, a plan of work for the proposed project, and a project budget. 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. Accessing Grants Gateway

Applicants must be **registered and pre-qualified** in the [Grants Gateway](#) to apply. New York State vendors must register in the Gateway and establish users in the Grants Gateway system.

For existing New York State 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 your 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 New York State, you will need to submit a Substitute W-9 Form to obtain a New York State SFS Vendor ID, in addition to the Registration Form for Administrators, to register.

D. 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 & 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.

E. 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.

F. How to File the Application

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

1. Log into [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.
4. Click on the “Search” button to initiate the search.
Click on the name of the Grant Opportunity (FreshConnect CSA for SNAP Non-Competitive) 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.

G. 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.

Attach all required documents at the end of the online application.

H. Technical Assistance with Grants Gateway

Reference materials and videos are available for Grantees applying to funding opportunities on the New York State 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 - Friday 8 a.m. to 4 p.m.

An after-hours support desk is available weekdays between 4:00 p.m. and 8:00 p.m. for account lockouts and basic questions at (800) 820-1890 or helpdesk@agatesoftware.com.

I. Plan of Work and Budget

Applicants will enter a plan of work and budget in Grants Gateway. The project plan of work is comprised of objectives, tasks, and performance measures.

Objective for each project is to expand SNAP participant's access to NY-grown CSA shares by reducing the cost to the participant while providing the total value to the producer providing the CSA share.

Example **tasks**:

1. Identify regionally available CSA programs that accept SNAP benefits as payment.
2. Identify SNAP-eligible participants in the region and provide outreach regarding the program.
3. Facilitate pickup locations easily accessed by SNAP participants.
4. Provide transportation of shares to designated pickup locations.
5. Collect SNAP transaction reports from producers to account for reimbursements after pickups.

Each task must be accompanied by one or more **performance measures**. Performance measures should be clearly defined results against which the project can be evaluated. Reporting requirements outlined in Section 9 of this document should be considered when writing performance measures.

Enter the project budget using the required categories:

- Personnel (staff salaries of the primary applicant)
- Fringe
- Contractual
- Travel
- Equipment
- Space/Utilities
- Operating expenses
- Other

6. ELIGIBLE PROJECTS

All complete applications will be awarded funding on a first-come, first-serve basis if the project meets the following criteria:

A. Project's Scope is eligible and aligns with the objective of the program:

- Expand SNAP participant's access to NY-grown CSA shares by reducing the cost to the participant while providing the total value to the producer providing the CSA share.

B. Workplan

- Project work plan provides adequate detail on activities to achieve project goals.

C. Budget Details

- Budget is between \$10,000 - \$50,000
- Expenses are eligible and reasonable

7. 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 New York State 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:

1. 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
2. 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.

8. CONTRACT & PAYMENT TERMS

A. Contracts

A contract defining all terms and conditions and responsibilities of the awardee will be developed by the Department after funds have been awarded. The contract will incorporate the work plan and budget included in the awardee's project proposal, among its provisions.

Upon execution of the contract by the awardee and the Department, 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.

B. New York State Master Contract

New York State has developed a standard "Master Contract" containing standard clauses required in all State Contracts. The Master Contract will be executed for all projects awarded under the RFA, and awardees are responsible for complying with the terms and conditions contained therein.

The Master Contract can be found at:

<https://grantsmanagement.ny.gov/system/files/documents/2018/09/sample-complete-nys-mcg.pdf>

Attachments to the Master Contract will include: (A-1) "Program Specific Terms and Conditions"; (B-1) "Expenditure Based Budget"; (C) "Work Plan"; and (D) "Payment and Reporting Schedule".

C. Payment

Once the contract is fully executed, grant funds will be disbursed by reimbursement only. 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 may 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 for reimbursing the contractor 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. The 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.

The Department and State Comptroller's Office reserve the right to audit the applicant's books and records relating to the performance of the project during and up to six years after the completion of the project.

9. REPORTING REQUIREMENTS

Recipients will be required to collect and report data necessary to document program activities and results:

A. Claim for Payment Report

Vendors must outline expenses by budget category with documentation showing payments made. Each claim for payment report must include a SNAP transaction report clearly noting each SNAP transaction requesting reimbursement.

B. 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 project.

10. 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.

11. OTHER REQUIREMENTS

A. Minority and Women Owned Business Enterprise

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 ACCORDING TO 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.newycontracts.com](https://ny.newycontracts.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.

B. 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://online.ogs.ny.gov/SDVOB/search>. 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 if:
 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. 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.

- b. 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.
- c. 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 regard 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/>

12. OTHER CONSIDERATIONS

A. The Departments reserves the right to:

1. Reject any or all proposals received with respect to this program.
2. Waive or modify irregularities in proposals received after prior notification and concurrence of the applicant.
3. Request from an applicant additional information as deemed necessary to more fully evaluate its proposal.
4. Amend the program's specifications after their release, with appropriate written notice.
5. Select only certain portions of the proposal for funding.
6. Negotiate the terms of any agreement proposed by the applicant.
7. Make all final decisions with respect to the amount of funding and the timing of payments to be provided to the applicant.

All eligible proposals submitted in response to this solicitation will become the property of the New York State Department of Agriculture and Markets.

13. FREEDOM OF INFORMATION

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

14. 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 the 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.