



**Agriculture
and Markets**

FUNDING OPPORTUNITY

New York State Department of Agriculture and Markets

New York Food for New York Families

Round 2 Competitive Grants

REQUEST FOR PROPOSALS

RFP #0325

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

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1. INTRODUCTION

The New York State Department of Agriculture and Markets (the “Department”) is pleased to announce the availability of a second round of funding for the New York Food for New York Families Competitive Grant Program.

The New York Food for New York Families Program Round 2 (NYFNYP2) will maintain and improve food and agricultural supply chain resiliency in New York State. This funding is provided by the United States Department of Agriculture (USDA) Local Food Purchase Assistance Cooperative Agreement Program (LFPA.) The goal of this program is to purchase food grown and produced in New York State and deliver it to food insecure communities. Additionally, this program focuses on creating new markets and purchasing from underserved producers.

2. REQUEST FOR PROPOSAL GUIDELINES

The Request for Proposal, application form, and all related documents will be posted on the [New York State Contract Reporter \(www.nyscr.ny.gov\)](http://www.nyscr.ny.gov) and the [Department of Agriculture and Markets website’s ‘Funding Opportunities’ webpage \(www.agriculture.ny.gov/funding-opportunities\)](http://www.agriculture.ny.gov/funding-opportunities).

2.1 RFP Timeline

Release Request for Proposals (RFP)	January 10, 2024
Informational Webinar	January 18, 2024, 3:00 p.m.
Deadline for Questions	February 1, 2024, 3:00 p.m.
Answers to Questions Posted	February 8, 2024
Deadline for Applications	February 15, 2024, 3:00 p.m.
Announcement of Grant Awards	Anticipated May 2024

2.2 Application Submission Requirements

Proposals must be submitted via mail or hand delivered.

Proposals must be received by the Department by **3:00 p.m. local time on February 15, 2024.**

Mail or hand-deliver your proposal, in one sealed envelope or package addressed to:
NYS Department of Agriculture and Markets
Division of Fiscal Management
Attn: Kimberly Carr (RFP0325)
10B Airline Drive Albany, NY 12235

Proposers are solely responsible for ensuring the timely delivery of their proposal. Proposals may not be submitted by fax or email. Materials received after the deadline will be returned unopened to the sender.

2.3 Questions and Answers

Any questions concerning this RFP must be received by 3:00 p.m. (local time) on **February 1, 2024**. Questions must be submitted in writing to Fatou Kandji via fax at (518) 457-2716 or email at NYFNYP@agriculture.ny.gov. Please list “RFP0325” in the subject line. Individual responses will not be provided.

A list of questions, answers to those questions, as well as any changes, additions, or deletions to the RFP will be posted on the NY State Contract Reporter website (www.nyscr.ny.gov) and the Funding Opportunities section of the Department’s website at (www.agriculture.ny.gov/funding-opportunities) on or before February 8, 2024.

All questions and answers shall be incorporated in the RFP as a formal addendum. 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 RFP. All bidders are responsible for keeping informed of any revisions to this invitation.

3. GENERAL PROGRAM INFORMATION

3.1 Program Goals

NYFNYP2 will maintain and improve food and agricultural supply chain resiliency in New York State. The goals of this program are to:

- Support local and traditionally disadvantaged farmers/producers by building and expanding economic opportunities and creating new marketing channels.
- Establish and broaden partnerships between New York farmers/producers and the food distribution community and local food networks to ensure distribution of fresh nutritious foods in rural, remote, and/or underserved areas.
- Improve food access for underserved communities by tailoring distribution to unique local challenges.

The Department will establish contracts with organizations for the purpose of purchasing New York agriculture food products and distributing these products for free to underserved communities facing food insecurity. Awardees will purchase food from New York State farmers/producers, targeting socially disadvantaged farmers/producers. Funds shall be used to purchase New York-grown, domestic foods and are expected to help build and expand economic opportunity for local and socially disadvantaged farmers/producers.

Awardees must spend 85% of the budget on fresh and/or minimally processed food. Awardees must distribute the purchased food to underserved communities that are not served through traditional food distribution networks. Food must be distributed without requirements placed on recipients. Food must be distributed free of charge.

3.2 Funding Available

A total of \$7,605,754.81 is available for The New York Food for New York Families Round 2 (NYFF2) program through this competitive request for proposals.

Applicants may apply for a minimum of \$250,000 to a maximum of \$2,000,000. A minimum of 85% of the award must be spent on eligible food purchases.

3.3 Application Restrictions

This funding opportunity (Round 2) is restricted to applicants who have not previously received funding through the New York Food for New York Families program.

- Applicants may only submit one application through this RFP.
- Applicants that applied to the first round of competitive funding and did not receive an award may apply.
- Entities that received an award through the first round, either the competitive RFP Track 1 (\$200,000-\$2 million) opportunity or the non-competitive RFA Track 2 (\$10,000-\$50,000) are not eligible to apply.

4. DEFINITIONS

Participants must use funds to purchase food that meets the definitions outlined in this section. Round 2 funding focuses food purchases on fresh, whole foods grown or produced by New York producers. Any processed food purchased must be minimally processed. Participants are encouraged to target socially and economically disadvantaged producers.

Participants must require their vendors to document that raw product ingredients are grown in

New York State, lightly processed foods contain at least 51% of New York State ingredients, and the remaining ingredients are sourced within 400 miles of the processor, and processors are located within 400 miles of NYS borders and within the USA.

New York Producers: Farmers, ranchers, producers, processors or distributors and other businesses involved in food production or distribution that are located in New York State.

New York State Food Products: Under the New York Food For New York Families Program Round 2 program, New York State product is defined as a raw agricultural product grown or produced in New York State, or a minimally processed agricultural product.

Minimally processed food: Minimally processed food is defined as a product processed in a manner that does not fundamentally alter the product. Examples include pasteurized goods, meat, canned, frozen, or dried goods.

- a. All minimally processed products must contain at least 51% New York State grown ingredients to be eligible. The remaining 49% of ingredients must be sourced from farms within New York State, or within 400 miles of the processor. Farm sources must be documented.
- b. Products processed outside of New York State are eligible only if the processor is located within 400 miles from New York State border and within the territory of USA. The final delivery and distribution of minimally processed food must be within an additional 400 miles of the processor.

Domestic Food: Domestic Food is an agricultural commodity grown, processed, and otherwise prepared for sale or distribution exclusively in the United States or its territories, except with respect to minor ingredients. Minor ingredients from nondomestic sources will be allowed to be utilized as a United States product if such ingredients are not otherwise: (1) produced in the United States; and (2) commercially available in the United States at fair and reasonable prices from domestic sources. The Following ingredients are determined by AMS Commodity Procurement as not available at fair and reasonable prices and are waived from U.S origin restrictions: (1) Vitamin A (Retinol Palmitate), (2) Vitamin D, (3) Carageenan (stabilizing agent), (4) Sorbic Acid (preservative), (5) Potassium Sorbate (preservative), (6) rennet (coagulant), (7) Items excepted from the Buy American Act under FAR 25.104 Non-available Articles.

Socially Disadvantaged Producers: A Socially Disadvantaged Farmer or Rancher is a farmer or rancher who is a member of a socially disadvantaged group. A socially disadvantaged group is a group whose members have been subject to discrimination on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental

status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program.

Underserved communities: Underserved communities are those defined in accordance with Executive Order 13985, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, Jan 20, 2021:

1. Sec. 2. Definitions. "For the purpose of this order: (a) the term "equity" means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality."

5. PROJECT REQUIREMENTS

5.1 Project Scope

Applicants should submit project proposals that meet the goals of the program. Projects may address the goals of this program in a variety of ways. All proposals should identify the producers being targeted as well as the beneficiaries of the food. Projects must describe efficient strategies to create, expand or incorporate New York food products into existing or new food distributions networks targeting food insecure communities. Awardees must buy New York State products from local farmers/producers, with targeted outreach to socially disadvantaged farmers. The purchased food must be distributed to underserved communities free of charge. Awardees may develop strategies to overcome the barriers that keep food insecure communities out of traditional distribution channels.

The primary purpose of this round of funding is the purchase of food, and a minimum of 85% of the budget must be spent on fresh or minimally processed products. Storage and distribution expenses directly associated with food procurement under this program are allowable and can be included in the overall food procurement cost. For additional information on allowable costs, see Section 5.6 Eligible Costs and 5.7 Ineligible Costs, and Attachment A, Section 8: Allowable Costs and Activities.

Examples of possible projects include, but are not limited to:

- Non-profit purchases more local food and expands delivery to new communities in food insecure areas.

- Local or municipal governments purchase more local food for facilities in food insecure communities.
- Food Bank or Pantry purchases food boxes directly from a farm.
- Community Center initiates a back-pack program to send food home with clients.
- Not-for-profit child-care centers serving food insecure communities purchase more local food for meals and snacks (purchases can supplement The Child and Adult Care Food Program).

Projects may not impose restrictions on persons receiving food, such as requiring purchase of food, attending meetings, or disclosing personal information.

Examples of unallowable activities include:

- Providing coupons for clients to shop at farmers markets or other retail locations.
- Purchasing CSA memberships (food boxes may be purchased).

5.2 Eligible Applicants

Eligible applicants include:

- Not-for-profit organizations engaged in food distribution
- Indian tribal organizations
- Agricultural Cooperatives
- Local or municipal governments
- Public educational institutions
- Organizations that applied to the first round of LFPA funding and did not receive an award

****Applicants must be registered and pre-qualified in the Statewide Financial System by the deadline of this RFP to be eligible.****

The state will be transitioning the functions of Grants Gateway to a new system that is part of the Statewide Financial System (SFS). The transition from Grants Gateway to SFS is currently scheduled to go live on January 16, 2024. The Grants Gateway system will be inactive for approximately one week prior to the transition beginning on Jan. 10, 2024.

After the updated system is launched, not-for-profit applicants will use SFS to create and submit prequalification. For those who are prequalified in Grants Gateway at the time of the transition, prequalified status and current documents are expected to transition to SFS with the existing expiration date. Vendors with prequalification status “in process” or “expired” will have to start the pre-qualification process over in SFS after January 16, 2024.

The primary contact for organizations previously registered with the Grants Gateway or with a New York State Vendor ID received an enrollment email with login credentials and instructions on how to access [SFS](#). We highly recommend applicants login immediately and verify their organizational profile. Logging in will help ensure timely access to renew prequalification status.

Information and training for vendors on SFS and the process for prequalification can be found at: <https://grantsmanagement.ny.gov/>.

It is highly recommended to confirm your organization's pre-qualification status and/or start the prequalification process as soon as the SFS system is live on January 16, 2024. There is an approval process after submitting information for review, and applicants should not wait until the deadline to do this as they risk not being prequalified and therefore ineligible on the deadline.

SFS Pre-Qualification Process

To start the pre-qualification process, applicants must:

- Log into [SFS](#)
- Click the "Grant-Management" button on the SFS home page,
- Click on the "pre-qualification application" tab,
- Answers all questions,
- Upload required documents, and
- Enter or update organization contact information.

For password reset or any other technical issues, please contact the SFS Help Desk at (855) 233-8363 or at Helpdesk@sfs.ny.gov.

5.3. Ineligible Applicants:

1. For-profit organizations
2. Individuals
3. Organizations that received a previous award from the New York Food for New York Families Grant Program Track 1 or Track 2.
4. Organizations not pre-qualified in the New York Statewide Financial System by the grant application deadline of 3:00 p.m. on February 15, 2024.

5.4 Sub-awards

Successful applicants may sub-award or sub-contract with private, public, for-profit, or nonprofit entities capable of ensuring program objectives and requirements are met.

5.5 Project Duration

Proposed projects must be completed by August 31, 2025, unless an extension is granted by USDA and the Department. The anticipated contract term is May 1, 2024 – August 31, 2025.

5.6 Eligible Costs

See Attachment A, AMS General Terms and Conditions, Section 8: Allowable Costs and Activities for a complete list of eligible and ineligible 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:

- Fresh or minimally processed domestic food produced by a New York grower or producer.
 - Eligible Products
 - Fresh produce
 - Minimally Processed food (with at least 51% of NY ingredients/ remaining 49% local)
 - Meat
 - Dairy
 - Eggs
 - Seafood
 - Fish
 - Ineligible Products
 - Alcoholic beverages
 - Coffee
 - Highly processed food like baked goods
or
pre-packaged food, including ready-to-eat heat and serve items.
- Lease or rent of vehicles
- Salaries and wages including fringe benefits directly related to the project
- Contractual services
- Supplies or equipment for food storage, preparation, or distribution under \$5,000 per piece of equipment
- Transportation or delivery of food (transportation cost should be included in the food budget)
- Marketing material cost (marketing material must display funding sources)

5.7 Ineligible Costs:

Grant funds may not be used for the following:

1. General purpose equipment over \$5,000 (e.g., walk-in refrigerator)
2. Construction
3. Purchase of cell phones
4. Purchase of computer hardware and office equipment
5. Salaries and wages unrelated to the proposal
6. Costs associated with preparing an application
7. Costs incurred prior to the award of a grant
8. Costs supported in whole, or in part, by other State or Federal funding
9. Food purchased for the National School Lunch Program
10. Indirect Costs
11. Purchase of CSA memberships are not eligible, but food boxes are eligible.

For a detailed list of allowable and unallowable costs, see Attachment A, USDA General Terms and Conditions Section 8: Allowable Costs and Activities.

6. REPORTING REQUIREMENTS

6.1 Documenting New York Purchases

Awardees will establish a system to document that 85% of the project budget is spent on direct food purchases of fresh or minimally processed New York State food products. The Department will provide documents the awardee will use to verify New York producers and products. Awardees purchasing through vendors and distributors will need to discuss the identification of farm source with these intermediaries.

6.2 Required Reports

Successful applicants will be required to submit monthly, quarterly and a final report including:

- amount of minimally processed food purchased and distributed
- producer source of purchased food/ingredients (e.g., product formulation statement)
- number of local and socially disadvantaged farmers from whom food or ingredients are purchased
- number of new marketing opportunities for producers

- number of underserved communities impacted
- number of food distribution events.

7. PROPOSAL SUBMISSION, FORMAT AND CONTENTS

7.1 Submission

Proposals must be received by the Department by 3:00 p.m. local time on February 15, 2024.

Complete submissions include:

- Original plus four (4) paper copies of the completed Application Form
- An electronic version of the Proposal in MS Word, on either a USB 2 or 3 compliant flash drive.

Mail or hand-deliver your proposal, in one sealed envelope or package addressed to:

NYS Department of Agriculture and Markets
Division of Fiscal Management
Attn: Kimberly Carr (RFP0325)
10B Airline Drive
Albany, NY 12235

Proposers are solely responsible for ensuring the timely delivery of their proposal. Proposals may not be submitted by fax or email. Materials received after the deadline will be returned unopened to the sender.

7.2 Proposal Contents

The proposal will consist of: 1.) Applicant Information Form; 2.) Proposed Budget; 3.) Project Narrative; and 4.) Application Checklist. These documents are 'Attachment B: Application Form'.

The Application Form is provided on [the Department of Agriculture and Markets website's 'Funding Opportunities' webpage \(www.agriculture.ny.gov/funding-opportunities\)](http://www.agriculture.ny.gov/funding-opportunities).

7.3 Proposed Budget and Budget Details:

Enter the project budget using the required categories:

- Personnel (staff salaries of the primary applicant)
- Fringe

- Contractual
- Travel
- Equipment
- Space/Utilities
- Operating expenses
- Other
 - Food cost should be reported under this category and should be at least 85% of total funds requested.

Provide detail about each budget category by providing a short narrative description of costs and why they are necessary for the project.

Awardees will be required to attend a grantee gathering towards the end of the grant to share results and best practices. Funds should be budgeted to attend.

7.4 Project Narrative: Plan of Work

The Project Narrative section of the proposal is limited to 10 pages, including questions. The limit does not include budget information or the checklist. Responses to questions should be completed in Times New Roman 12-point font.

Applicants will be asked to describe their plan of work. The project plan of work is comprised of objectives, tasks, and performance measures.

Objectives should reflect one or more of the goals of this program as described in Section A: Program Description.

A wide variety of **tasks** may be proposed to meet objectives. Examples of some possible tasks intended to meet this program's objectives are listed below. These tasks are intended as suggestions. Proposals may include these tasks or other tasks not listed to meet the overall objective.

Example **tasks**:

- Identify socially disadvantaged farmers/producers.
- Identify underserved population who cannot access food through traditional food assistance and distribution networks.
- Create purchasing contracts with vendors and farmers.
- Rent the equipment needed to create new distribution networks targeting underserved populations.
- Distribute food to targeted populations through a series of distribution events.
- Collect data for monthly reports.

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 12 of this document should be considered when writing performance measures.

8. PROPOSAL 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. A minimum scoring threshold of 55 is established for proposals to be awarded. The evaluation panel shall consider the following factors in rating proposals:

8.1 Project Description (15 points)

- Is there a clear description of the project that identifies how the goals of the New York Food for New York Families Program will be reached including:
 - How well does the project address the increase in volume of domestic agricultural products from New York producers with emphasis on purchasing from socially disadvantaged producers, to create new market opportunities?
 - How well does the project identify and describe New York socially disadvantaged farmers/producers and underserved communities?
 - How well does the project describe creating new, or expanding existing, models of food distribution that target underserved populations who cannot access food through traditional food assistance and distribution networks?

8.2 Plan of Work (15 points)

- Has the applicant clearly described what activities will occur?
- Has the applicant described who will do projected activities?
- Is there a timeline showing where and when they will take place?
- Have specific benchmarks and deliverables (performance measures) been described and are they achievable?

8.3 Reasonableness of Cost (25 Points)

1. Are the project costs reasonable and allowable for the proposed activities?
2. Is 85% or more of the budget food expenses?

3. How does the scale of project impact relate to the budget?

8.4 Quantification of Project Benefits and Reporting Plan (25 points)

How well have the 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. How will the applicant capture this reporting data? New projects should indicate a baseline of 0.

- Projected **percent increase in** marketing opportunities established by purchasing from New York State farmers/producers? And of those, what percentage will likely be sustained after the funding is expended?
- Projected **percent increase** in marketing opportunities established by purchasing from socially disadvantaged farmers/producers? And of those, what percentage will likely be sustained after the funding is expended?
- Projected **percent increase** in volume of purchases distributed beyond current food distribution network to serve underserved communities? And of those, what percentage will likely be sustained after the funding is expended?
- Projected **percent increase** in dollar amount of New York State farm products procured from local and regional farmers/producers?
- Is there an adequate plan to capture reporting data?

8.5 Organizational Experience & Personnel (10 points)

Is the project team and their responsibilities described, including salaried and in-kind participation? What degree of experience does the applicant organization and partners have in food procurement and distribution? Conducting outreach to socially disadvantaged farmers? Does the organization have the capacity and experience to complete reporting requirements and oversee fiscal administration of grant funds?

8.6 Project Sustainability (10 points)

Will the project continue after the grant has ended? What long-term benefits will result from this work?

9. AWARD PROCESS

9.1 Scoring of Proposals

The Department will first screen applications to ensure that they meet all eligibility and proposal completeness requirements. All proposals deemed eligible by the Department

will be competitively rated by evaluator(s) designated by the Department.

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 55 will be awarded funding until available funds are exhausted, or until all proposals are funded, whichever occurs first.

If a tie occurs between projects, the project with the highest score for the Reasonableness of Cost section will be awarded. If tied projects have identical Reasonableness of Cost scores, the first proposal received by the Department will be awarded. If tied projects are received on the same date, a coin flip will be used to break the tie.

Geographic Distribution

At the discretion of the Department, should there be areas of New York State where no funds are awarded for projects after completing the above evaluation, an award of up to a total of five (5) additional points per application may be given to help achieve geographic diversity. 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

9.2 Notification of Award

The Department will notify the selected respondent verbally, followed by a written confirmation. Unsuccessful respondents will be notified in writing by the Department within ten (10) business days after the award.

9.3 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 Kimberly Carr, 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.

9.4 Bid Protest Procedures

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

- A. 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.
- B. The protest must be filed within ten (10) business days of receipt 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 Kimberly Carr at:
NYS Department of Agriculture and Markets
Division of Fiscal Management
10B Airline Drive
Albany, NY 12235
Or via email: procurement.info@agriculture.ny.gov
- C. The Department's Division of Fiscal Management will convene a review team that will include at least one staff member from each of: the Department's Counsel's Office, the Department's Division of Fiscal Management, and Department's Division of Agricultural Development. 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 Fiscal Management will advise OSC that a protest was filed.
- D. 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/>.

10. ADMINISTRATIVE REQUIREMENTS FOR CONTRACTING WITH NEW YORK STATE

10.1 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.

10.2 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:

- 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.

11. CONTRACT & PAYMENT TERMS

11.1 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.

11.2 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 NY Food for New York Families Competitive Grant Program, 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 include: (A-1) "Program Specific Terms and Conditions"; (B-1) "Expenditure Based Budget"; (C) "Work Plan"; and (D) "Payment and Reporting Schedule".

****The format of the Master Contract will be updated with the transition from Grants Gateway to SFS. Once the new Master Contract is available, it will be posted to the Department's website.****

11.3 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. These advance funds may be used on any eligible expense.

The ratio of NYS food expenses to administrative (all other) expenses established in this contract must be adhered to by the awardee. Reimbursement of administrative expenses may be delayed if spending on NYS food products is lower than budgeted.

Awardees must submit separate claims for reimbursement for (1) food expenses and (2) all other expenses. Organizations that are reimbursed for administrative costs that exceed the established ratio of administrative expenses to food expenses will be required to return administrative funding.

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.

Vendors making advance payment for food cannot be reimbursed until food is delivered.

A New York State Claim for Payment Form must be submitted to the Business Service Center 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.

12. REPORTING REQUIREMENTS

12.1 Monthly Purchasing Reports

The Department will monitor contract performance. A monthly report of food purchases, source farms and distribution events will be required.

12.2. 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.

12.3 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.

13. 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.

14. OTHER REQUIREMENTS

14.1. 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 0% percent for MWBE participation, 0% percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 0% 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](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.

14.2. Participation Opportunities for New York State Certified Service-Disabled Veteran Owned Businesses

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), 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, Bidders/Contractors are strongly encouraged and 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.

For purposes of this procurement, the Department conducted a comprehensive search and determined that the Agreement does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Agreement for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>.

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Agreement.

15. 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 their 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.
- 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.

16. FREEDOM OF INFORMATION LAW

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