NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS

REQUEST FOR PROPOSALS

for

Program Administrator

for the

Beginning Farmers Competitive Grant Program
Round 2

RFP0321

RFP Issued: October 16, 2024
Proposals Due: December 17, 2024

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1. INTRODUCTION

1.1 OVERVIEW

The New York State Department of Agriculture and Markets (Department) seeks proposals from eligible entities, to administer a Beginning Farmers Competitive Grant Program (Program) established by the New York State Fiscal Year 2023-2024 and Fiscal Year 2024-2025 Enacted Aid to Localities Budgets (Chapter 53, L. 2024).

1.2 ELIGIBLE ENTITIES

The following entities are eligible to submit a proposal:

a. Municipalities
b. Public benefit corporations
c. Local development corporations
d. Not-for-profit organizations

NOTE: Proposals will also be accepted from eligible entities proposing to partner with other organizations to provide financial assistance, including capital assistance to ensure the effective distribution of grant funds. The lead partner must be an eligible entity under this Request for Proposals (RFP) and will be considered the lead Program Administrator.

1.3 TERM

The contract resulting from this RFP will be for a four (4) year term.

1.4 RFP TIMELINE

The following timetable is established for this RFP and is subject to change. The Department may extend the due date for proposals by issuance of addenda to this RFP. Prior to submitting a proposal, respondents should check the NY State Contract Reporter website (www.nyscr.ny.gov) to confirm the issuance of addenda relating to the RFP schedule. Respondents are responsible for keeping informed of any changes in the schedule.

RFP Publication in the Contract Reporter	Wednesday, October 16, 2024
Deadline to Register for Informational Webinar	Wednesday, October 30, 2024
Informational Webinar (attendance optional)	Thursday, October 31, 2024, 12:00 p.m.
Deadline for Submission of Questions	Friday, November 29, 2024
Final Questions and Answers Posted	Friday, December 6, 2024
Deadline for Proposals	**Tuesday, December 17, 2024, 3:00 p.m. (local time)**

1.5 Questions and Answers

Any questions concerning this RFP must be received by 3:00 p.m. (local time) on November 29, 2024. Questions must be submitted in writing via email to John Ross or Kate Tozzi at procurement.info@agriculture.ny.gov. Please list "RFP0321 – PROGRAM ADMINISTRATOR FOR THE BEGINNING FARMERS COMPETITIVE GRANT PROGRAM" in the subject line. Individual responses will not be provided. The Department will provide written responses to questions in the form of one or more addenda to the RFP which will be published on the NY State Contract Reporter website (www.nyscr.ny.gov) on or before December 6, 2024. 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 respondents are responsible for keeping informed of any revisions to this RFP. All addenda shall be incorporated into the RFP which will be part of the awarded contract. If you are unable to access the NY State Contract Reporter website, please contact John Ross or Kate Tozzi at procurement.info@agriculture.ny.gov.

1.6 Proposal Submission Requirements

Note: See Section 5 for proposal content requirements.

Proposals must be received by the Department's Division of Fiscal Management by **3:00 p.m.** local time on December 17, 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
10B Airline Drive
Albany, NY 12235
ATTN: John Ross or Kate Tozzi (RFP0321)

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

1.7 Optional Informational Webinar

The Department will hold an optional informational webinar via WebEx Webinar. The purpose of this conference is to brief potential respondents on the purpose of the RFP and answer questions that interested parties may have regarding the RFP.

Questions and answers from this conference will be posted on the Department's website by December 6, 2024.

Interested parties shall notify the Department by 3:00 p.m., local time, on Wednesday, October 30, 2024 of their intent to participate in the conference by email to John Ross or Kate Tozzi at procurement.info@agriculture.ny.gov. Please list "Bidders Conference RFP0321 – PROGRAM ADMINISTRATOR FOR THE BEGINNING FARMERS COMPETITIVE GRANT PROGRAM" in the subject line. Interested parties will receive a link to the Webinar upon the Department's receipt of a notice of intent to participate.

2. BACKGROUND AND PURPOSE

The New York State Fiscal Years 2023-2024 and 2024-2025 Enacted Aid to Localities Budgets established a program for grants to Beginning Farmers. Grants shall be awarded on a competitive basis to farmers who have not operated a farm for more than ten years, and who will materially and substantially participate in operating a farm within a region of the state and may include urban farmers. Grants shall not be less than $5,000 and may not exceed $250,000 for any single beneficiary.

Grants may be awarded for purposes including, but not limited to:

- the start-up, improvement or expansion of a farm operation,
- worker or apprenticeship training,
- marketing activities,

- the purchase of agricultural land and physical structures thereon,
- the purchase of machinery, equipment or livestock, or
- the construction or improvement of physical structures, including semi-permanent structures.

Grants may be awarded for projects on land leased by the recipient.

Pursuant to the enacting legislation, the Department is authorized to enter into agreements with municipalities, public benefit corporations, local development corporations, or not-for-profit organizations that provide financial assistance, including capital assistance for the administration of the grant program. The purpose of this RFP is to select an entity to administer the Beginning Farmers Competitive Grant Program.

3. PROGRAM FUNDING

A total of $2,000,000 is available for the Program, of which not more than 15% ($300,000) may be used by the Program Administrator for services and expenses directly related to the administration of the Program. A minimum of $1,700,000 (85%) must be made available for the award of grants to eligible beginning farmers.

4. SCOPE OF SERVICES

The Program Administrator will work in consultation with the Department to develop a Request for Proposals to solicit applications from eligible applicants through a competitive process and award grants from Program funds for implementation of approved projects. In awarding grants, the Program Administrator shall use its best efforts to provide statewide distribution of available program funds.

The approved Request for Proposals must include a system for awarding grants through the use of multiple funding tracks where one track will be reserved for smaller, less complex projects. Match requirements shall not exceed five percent (5%) of the grant amount. Not-for-profit organizations will not be eligible recipients of grant funds.

The Program Administrator shall monitor the performance of awardees and the awardees' Program fund expenditures. The Program Administrator shall establish performance and expenditure reporting requirements for each grant awardee, and may establish other conditions necessary to ensure appropriate and effective use of funds disbursed pursuant to the Program.

5. PROPOSAL CONTENT & REQUIREMENTS

The proposer is solely responsible for the content and completeness of the proposal. The Department may request clarification from any proposer regarding items in the proposal.

5.1 Proposal Content

Your complete proposal package must contain the following six (6) separately labeled and sealed envelopes.

Envelope 1, titled "**RFP0321 Minimum Qualifications and Forms and Assurances**"
Original plus one (1) paper copy of (See **Section 8.1** Required Submission Documents):

- Cover Sheet and Submission Documents Checklist
- **Attachment 3** - Mandatory Contract Requirements Certification Form (Original Signatures)
- **Attachment 4** - Non-Collusive Bidding Certification (Original Signatures)

- **Attachment 5** - MacBride Nondiscrimination Certification Form (Original Signatures)
- **Attachment 6** - Procurement Lobbying Law Forms (Original Signatures)
- **Attachment 7** - Vendor Responsibility (Original Signatures)
- **Attachment 8** – Vendor Assurance of No Conflict of Interest (Original Signatures)
- **Attachment 9** – Executive Order No. 177 (Original Signatures)
- **Attachment 10** - Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)
- **Attachment 11** – Minimum Qualifications Form

Envelope 2, titled "**RFP0321 Technical Proposal – Do Not Open**"

- Original plus four (4) paper copies of the completed Technical Proposal addressing the criteria set forth in **Section 5.4** of this RFP.
- An electronic version of the Technical Proposal in MS Word, on a USB 2 or 3 compliant flash drive.
- Original plus four (4) paper copies of **Attachment 2** - Subcontracting Form

Envelope 3, titled "**RFP0321 Bid Form/Cost Proposal – Do Not Open**"

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

Envelope 4, titled "**RFP0321 MWBE/EEO Documents – Do Not Open**"

- Original plus four (4) paper copies of **Attachment 12 – MWBE/EEO Documents** (Original Signatures)

Envelope 5, titled **"RFP0321 SDVOB Forms – Do Not Open"**

- Original plus one (1) paper copy of **Attachment 13** - SDVOB Forms (Original Signatures)

Envelope 6, titled **"RFP0321 Optional Forms – Do Not Open".** (See Section 8.5 Recommended Submissions)

- Proof of Workers' Compensation Coverage
- Proof of Disability Benefits Coverage
- Sales and Compensating Use Tax Certification
- Form A: New York State Consultant Services Contractor's Planned Employment Form (AC 3271-S)

Place the six (6) envelopes described above into one package and mail or hand-deliver to:

New York State Department of Agriculture and Markets
Division of Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: John Ross or Kate Tozzi (RFP0321)

5.2 Minimum Qualifications

See Attachment 11 – Minimum Qualifications Form

Respondents are advised that the Department's intent is to ensure that only qualified, responsive and responsible entities enter into a contract to administer the Beginning Farmers Competitive Grant Program as defined in this RFP. The Respondent must be able to provide documentation of the following minimum qualifications. The Department considers the following qualifications a pre-requisite in order to be considered a qualified Respondent for the purposes of this solicitation.

A. The Respondent must be municipality, public benefit corporation, local development corporation, or not-for-profit organization.

B. The Respondent must have an established accounting system which provides internal controls to safeguard assets, ensures fund accountability by cost category, assures accounting data accuracy and reliability, promotes operating efficiency and complies with generally accepted accounting principles.

5.3 Mandatory Contract Requirements

Each respondent must certify that:

A. No other obligation or engagement, contractual or otherwise, will impact the selected contractor's ability to administer the Beginning Farmers Competitive Grant Program during the contract period.

B. The selected contractor will have full control of all services provided pursuant to this engagement and assumes total responsibility for financial loss, accident, injury, or death that may occur as a result of the services provided. The selected Contractor will indemnify and hold harmless the State of New York, the Department, its officers and employees, from all claims, demands, damages, expenses, liability or obligation for damages, loss or injury to, or of, any person or property arising out of the acts of the selected Contractor, its agents, employees, and those acting for or on its behalf. Such indemnity shall not be limited by reasons of any insurance coverage provided.

C. The selected Contractor will obtain and maintain insurance policies that meet the requirements set forth in **Exhibit 1: Insurance Requirements**.

D. The selected Contractor agrees to comply with "Appendix A, Standard Clauses for New York State Contracts," a copy of which is included in the sample New York State Department of Agriculture & Markets contract attached to this RFP as **Exhibit 2.**

5.4 Technical Proposal (80 Points)

See **Section 5.1 – Proposal Content** for information on packaging the proposal. The proposal should describe the respondent's approach to administering a competitive grant program and address all of the elements below. Proposals must include a title page with the RFP number and title, respondent's contact information, and a Table of Contents and narrative that follows the headers set forth in subsections 5.4.1, 5.4.2, and 5.4.3.

5.4.1 Experience and Key Personnel (20 points)

5.4.1.1 Demonstrate an ability to administer a competitive grant program. Describe the experience of the Respondent and any partners, including timeframes, in administering similar grant programs comparable in scale and scope to the services contemplated herein, identifying the particular strengths of the Respondent and each of the partners.

5.4.1.2 Describe the background and experience of key personnel, partners, or subcontractors. Include an organizational chart which shows all divisions, sections or units including executive, accounting and other programmatic functions, as well as a list of all personnel and relevant subcontractors who will be involved with the contract awarded from this RFP, and the percentage of their time expected to be devoted to the contract. Indicate if key partners will receive compensation as subcontractors and the role they will play in administering the program.

5.4.2 Proposed Work Plan (45 points)

5.4.2.1 Provide a detailed work plan identifying and describing the administrative services the Respondent and any partners propose to provide and explain how each entity will provide those services. The plan should describe, at a minimum:

a) how the Program will be promoted,

b) how the Request for Proposals process will be conducted,

c) the reporting requirements and other protocols that the Respondent and any partners will establish to ensure appropriate and effective use of the Program funds, and

d) if the work plan involves working with partners, provide a clear and concise plan for how the Respondent will collaborate and engage with partners to ensure high levels of participation in the Program on a Statewide basis.

e) a timeline that includes dates, a sequential list of tasks and associated outcomes that describe how and when the work will be completed, who will complete the task, and a distinct metric to gauge the completion or success of the task.

5.4.3 Ability to reach the target population of eligible grant applicants. (10 points)

5.4.3.1 Describe the Respondent's experience and any partners' experience in successfully providing services to beginning farmers.

5.4.3.2 Describe the Respondent's history of collaboration and engagement with other groups and organizations that provide or assist in providing services to beginning farmers.

5.4.4 Ability to Provide Financial Assistance, including Capital Assistance. (5 points).

5.4.4.1 Describe the Respondent's experience and any partners' experience in successfully providing financial services, including capital assistance.

5.5 Cost Proposal

The cost proposal must be submitted on "**Attachment 1** - Bid Form" included in the Submission Documents. The Bid Form must not be altered in any way. Please refer to **Section 5.1**—Proposal Content for information on how to package your proposal. Bidders who do not fully complete and submit the attached Bid Form may be disqualified.

Your cost, which shall be fixed, must include all direct, indirect and incidental expenses to provide the administrative and promotional services sought by this RFP. Your cost will remain fixed during each year of the Term of the Agreement.

6. SELECTION CRITERIA

All complete proposals received by the deadline will be reviewed using the following criteria and ratings. A proposal will first be reviewed by Department staff to ensure that the proposal is complete, and that the minimum qualifications have been met. The Department reserves the right to request any missing

information from those items marked with an asterisk (*) on the Submission Documents Checklist. The Respondent will have three (3) business days to provide any missing information requested by the Department for those items marked with an asterisk (*) on the Submission Documents Checklist.

Points will be allocated as follows:

Technical Criteria (80%)	
Technical Proposal	80 points
Cost Criteria (20%)	
Cost Proposal	20 points
Maximum Score	**100 points**

6.1 Technical Evaluation

A technical evaluation committee will review each Technical Proposal to determine compliance with the requirements described in this RFP. The technical component of all proposals shall be scored individually by each member of the committee using the point ranges assigned to each component within each criterion when assigning a whole number score for each of the criteria. The committee retains the right to determine whether any deviation from the requirements of the RFP is substantive in nature and may reject, in whole or in part, any and all proposals, and/or waive minor irregularities.

The Department may request written clarifications during evaluations. In the event written clarifications are necessary, the evaluation committee will meet to discuss clarifications and any disparate scores. The evaluation committee will be permitted to review its scoring and to make corrections based upon written clarifications, errors discovered and/or disparate scores.

The Technical Proposal represents 80 points of the overall score. All complete proposals received from eligible and qualified respondents will be evaluated.

The Department will make the award to the respondent whose proposal provides the best value to the State of New York.

The technical component of the proposal is based on the following criteria:

A. Demonstrated experience administering grant programs. (15 points)

B. The length of time the respondent and any partners have been providing similar services (5 points)

C. The proposed work plan is reasonable and clearly explains the actions that will be taken by the Respondent and any partners to provide the services sought by this RFP, including proposed timeframes for ensuring the timely expenditure of grant funds (45 points).

D. Demonstrated ability to reach the target population of grant recipients (10 points).

E. Demonstrated ability to provide financial assistance, including capital assistance. (5 points).

6.2 Cost Evaluation

The Cost Evaluation will be conducted separately on all bids that are deemed to meet the minimum qualifications. The Bid Form provided must be used, and not altered in any way (See **Attachment 1** - Bid Form included in the Submission Documents packet).

The Cost Proposal represents 20 points of the overall score and points will be awarded pursuant to the formula below. This calculation will be computed by staff from the Department's Division of Fiscal Management independently of the technical scoring committee.

Your cost score depends on the amount of Program funds you propose to use to pay for your administrative costs. The lower your administrative cost, the higher your score will be. Use the Bid Form to describe and attribute costs to the activities you would undertake to administer the Program, as you have described in your technical proposal. Your total cost must include all direct, indirect and incidental expenses to provide the administrative services sought by this RFP.

The proposal using the least amount of Program funds to pay for administrative costs will receive the maximum 20 points. The cost of each remaining proposal will be converted to a weighted point score using the following formula:

Points = (Lowest cost divided by the cost being evaluated) x 20

7. AWARDS

7.1 Method of Award

The Department will make a single contract award to the eligible and qualified respondent whose proposal receives the highest aggregate score thereby providing the best value to the State of New York. The Department will compile the financial and technical scores and compute the aggregate score for each proposal and rank the proposals from highest to lowest. The aggregate score for each proposal will consist of an average of all technical scores (rounded to two decimal places) from the technical evaluators added to the score from the cost evaluation (rounded to two decimal places). In the case of a tie score, the respondent among the tied group with the highest cost proposal score will be awarded the contract.

7.2 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.

7.3 Debriefing Procedures

Pursuant to section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of notification by the Department that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to procurement.info@agriculture.ny.gov

7.4 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 John Ross or Kate Tozzi 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.

E. 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/.

8. SUBMISSION DOCUMENTS & CONTRACT TERMS

8.1 Required Submission Documents

The documents listed below are included in the Submission Documents section, which follows. All documents requiring signature must be signed by an authorized representative of the Respondent. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful Respondent and the Department. Please refer to **Section 5.1**, "Proposal Content" for more information on how to package your proposal:

- Bid Form/Cost Proposal (Signature Required Hard Copy - the form is included in the Submission Documents as **Attachment 1**)
- Subcontracting Form (the form is included in the Submission Documents as **Attachment 2**)
- Mandatory Requirements Certification Form (Signature Required - the form is included in the Submission Documents as **Attachment 3**)
- Non-Collusive Bidding Certification (Signature Required - the form is included in the Submission Documents as **Attachment 4**)
- MacBride Certification (Signature Required - the form is included in the Submission Documents as **Attachment 5**)
- Offerer Disclosure of Prior Non-Responsibility Determinations (Procurement Lobby Law Forms) (Signature Required - the form is included in the Submission Documents as **Attachment 6**)
- Vendor Responsibility (Signature Required - the form is included in the Submission Documents as **Attachment 7**)
- Vendor Assurance No Conflict of Interest (Signature Required – the form is included in the Submission Documents as **Attachment 8**)
- Executive Order No. 177 (Signature Required – the form is included in the Submission Documents as **Attachment 9**)

- Substitute W-9 Form to obtain SFS ID (Signature Required - Return if SFS Vendor ID is requested – the form is included in the Submission Documents as **Attachment 10**)
- Minimum Qualifications Form (the form is included in the Submission Documents as **Attachment 11**)
- MWBE/EEO Documents (the forms are included in the Submission Documents as **Attachment 12**)
- SDVOB Forms (the forms are included in the Submission Documents as **Attachment 13**)

8.2 Mandatory Contract Terms

The successful respondent will be required to execute a written contract with the Department. A sample New York State Department of Agriculture and Market's contract is attached to this RFP as Exhibit 2. By submitting a proposal, respondent agrees to be bound by all terms and conditions in the Department's contract including: Appendix A "Standard Clauses for New York State Contracts"; Appendix D "General Conditions for Agreements New York State Department of Agriculture and Markets;" and Appendix E "Special Conditions for Agreements New York State Department of Agriculture and Markets."

8.3 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 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 thirty percent (30%) for MWBE participation, fifteen percent (15%) for New York State-certified Minority-owned Business Enterprise ("MBE") participation and fifteen percent (15%) 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 Request for Proposals (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. 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 518-485-1325 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:

(1) An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an 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.

(2) 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, 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:

- If a respondent fails to submit an MWBE Utilization Plan;
- If a respondent fails to submit a written remedy to a notice of deficiency;
- If a respondent fails to submit a request for waiver; or
- 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 & 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 of 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, 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.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

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 sub-contractors 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 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.

8.4 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 ("SDVOBs"), thereby further integrating such businesses into New York State's economy. AGM 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 AGM 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 Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

A. AGM hereby establishes an overall goal of six percent (6%) for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/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 Amanda Shults 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 Contract.

B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

II. SDVOB Utilization Plan

A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.

B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, 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, the Bidder 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 a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to AGM.

C. AGM will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of AGM acceptance or issue a notice of deficiency within 20 days of receipt.

D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to AGM a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by AGM to be inadequate, AGM shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by AGM, 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 disqualification of the bid or proposal.

E. AGM may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

   (a) If a Bidder fails to submit an SDVOB Utilization Plan;
   (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
   (c) If a Bidder fails to submit a request for waiver; or
   (d) If AGM determines that the Bidder has failed to document good faith efforts.

F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract 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 Contract. Upon the occurrence of such a material breach, AGM 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, Bidder/Contractor shall contact the SDVOB liaison at supplierdiversity@agriculture.ny.gov for guidance.

B. In accordance with 9 NYCRR § 252.2(m), a Bidder/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. A Bidder 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 AGM at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, AGM 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 Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to AGM, but must be made no later than prior to the submission of a request for final payment on the Contract.

D. If AGM, 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, AGM may issue a notice of deficiency to the Contractor. The 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 at the time of bid submission.

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 Contract. 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 Bidders/Contractors' solicitation was not selected.

(3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by AGM with certified SDVOBs whom AGM determined were capable of fulfilling the SDVOB goals set in the Contract.

(4) Information describing the specific steps undertaken to reasonably structure the Contract 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 AGM during the term of the Contract 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 the Contractor and submitted to AGM, by the 10th day of each month during the term of the Contract, 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 Contract, 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/

8.5 Recommended Submissions

The following forms are not required to be submitted with the proposal, though each form will be required prior to contract execution. Respondents are encouraged to submit these forms to expedite contract execution if the respondent is awarded the contract.

8.5.1 Workers' Compensation Coverage and Debarment

The New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of vendors that violate certain sections of the WCL. The WCL requires the heads of all municipal and State entities to ensure that businesses have appropriate workers' compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

Workers' compensation requirements are covered by WCL Section 57, while disability benefits are covered by WCL Section 220(8). The Workers' Compensation Benefits clause in Appendix A – "Standard Clauses for New York State Contracts" (January 2019) states that in accordance with Section 142 of the State Finance Law, a contract shall be void and of no force and effect unless the contractor provides and maintains coverage during the life of the contract for the benefit of such employees as are required to be covered by the provisions of the WCL.

Under provisions of the 2007 Workers' Compensation Reform Legislation (WCL Section 141-b), any person, or entity substantially owned by that person: subject to a final assessment of civil fines or penalties, subject to a stop-work order, or convicted of a misdemeanor for violation of Workers' Compensation laws Section 52 or 131, is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each violation. The ban is five years for each felony conviction.

The Workers' Compensation Board has developed several forms to assist State contracting entities in ensuring that businesses have the appropriate workers' compensation and disability insurance coverage as required by Sections 57 and 220(8) of the WCL. ***Please note – an ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage***.

Proof of Workers' Compensation Coverage

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

- **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund; or
- **Form SI-12**– Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or

- **CE-200**– Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage

Proof of Disability Benefits Coverage

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

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

ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: New York State Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

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

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

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

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

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

8.5.3 Consultant Disclosure Law

Pursuant to State Finance Law § 163 certain contractors that provide services for State purposes must submit an annual employment report that includes for each employment category within the contract, the number of persons employed to provide services under the contract, the number of hours they work and their total compensation under the contract. This includes information on any persons working under any subcontracts with the state contractor.

The selected bidder must complete and submit *Form A: New York State Consultant Services Contractor's Planned Employment from Contract Start Date Through the End of the Contract Term (AC 3271-S)* upon the award of a contract. The completed form must include information for all employees providing service under the contract, whether employed by the contractor or a subcontractor. Please note that the form captures the necessary planned employment information prospectively from the start date of the contract through the end of the contract term.

The selected bidder will be required to submit *Form B: New York State Consultant Services Contractor's Annual Employment Report* to the Department, the Office of the State Comptroller (OSC) and the Department of Civil Service (DCS) on or before May 15th of each year of the contract. Please note that, in contrast to the information to be included on Form A, which is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis, Form B is required to be submitted each year the contract is in effect and is intended to capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1st- March 31st).

The above reports are subject to disclosure pursuant to § 87 of the New York Public Officers Law provided that in disclosing such reports the Department will redact the name, social security number and other personal information of any individual employee or consultant that is included in such document.

Please note that although the forms referenced in this section 8.5 are not required as part of the bid submissions, the Department encourages bidders to include them with their bid submissions to expedite contract execution if the bidder is awarded the contract.

9. CONSIDERATIONS RELATED TO THIS PROCUREMENT

9.1 Department's Reservation of Rights

The Department reserves the right to:

- Reject any or all proposals received with respect to this RFP.
- Withdraw the RFP at any time, at the Department's sole discretion or otherwise decline to award a contract from this RFP.
- Prior to the due date for proposals, amend this solicitation after its release, with appropriate written notice posted on the Department's website to correct errors or oversights, or to supply additional information, as it becomes available.
- Prior to the due date for proposals, direct respondents to submit proposal modifications addressing subsequent RFP amendments.
- Change any of the scheduled dates.
- Make an award in whole or in part.
- Require clarification from any respondent to assure a full understanding of the responsiveness to the requirements of the RFP.
- Request additional information from respondents as deemed necessary to more fully evaluate proposals or to obtain omitted required forms.

- Disqualify any respondent whose conduct and/or proposal fails to conform to the requirements of the RFP.
- Use proposal information obtained through site visits, management interviews and the Department's investigation of a respondent's qualifications, experience, ability or financial standing, and any material or information submitted by the respondent in response to the Department's request for clarifying information in the course of evaluation and/or selection under the RFP.
- Waive or modify minor irregularities in proposals received.
- Eliminate any minimum or mandatory non-material specifications that cannot be complied with by all of the respondents.
- Waive any requirements that are not material.
- Conduct contract negotiations with the next responsible bidder, should the Department be unsuccessful in negotiating with the selected bidder.
- Unless otherwise specified in the solicitation, every offer is firm and not revocable until the contract start date.

9.2 Subcontracting

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the Department. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The Contractor may arrange for a portion/s of its responsibilities under this Agreement to be subcontracted to qualified, responsible subcontractors, subject to approval of the Department. If the Contractor determines to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this Agreement must be fully explained by the Contractor to the Department. As part of this explanation, the subcontractor must submit to the Department a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the Contractor prior to execution of this Agreement.

The Contractor retains ultimate responsibility for all services performed under the Agreement. All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this Agreement including, but not limited to, the body of the Agreement, Appendix A – Standard Clauses for New York State Contracts, and required proof of workers compensation and disability insurance.

Unless waived in writing by the Department, all subcontracts between the Contractor and subcontractors shall expressly name the State, through the Department, as the sole intended third party beneficiary of such subcontract. The Department reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the Department or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the Department.

The Department reserves the right, at any time during the term of the Agreement, to verify that the written subcontract between the Contractor and subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this Agreement.

The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the

performance of the Contractor's duties under the Agreement. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Agreement.

All subcontractors shall be required to complete and submit a Vendor Responsibility Questionnaire for subcontracts valued at $100,000 or more over the term of the contract, or a Contractor Information Checklist for subcontracts valued at less than $100,000 over the term of the contract, unless the subcontractor is an entity that is exempt from reporting by OSC (exempt entities can be found online at http://www.osc.state.ny.us/vendrep/resources_docreq_agency.htm). (See Section 9.5.)

9.3 New York Law

The provisions of New York law shall apply to the contract and to all claims, actions and other proceedings arising out of the contract.

9.4 Required Approvals

Any contract award resulting from this solicitation will be subject to the approval of the Office of the Attorney General of the State of New York and the Office of the State Comptroller of the State of New York.

9.5 Vendor Responsibility and NYS Vendor ID

9.5.1 Prime Contractors:

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, the Department must make an affirmative responsibility determination. The factors to be considered include: legal authority to do business in New York State; integrity; capacity - both organizational and financial; and previous performance. Before an award of $100,000 or greater can be made to a covered entity, the entity will be required to complete and submit a Vendor Responsibility Questionnaire. Public Authorities, BOCES, public colleges and universities are some of the exempt entities. For a complete list, see: http://www.osc.state.ny.us/vendrep/resources_docreq_agency.htm.

All respondents must fully and accurately complete the Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"). All respondents acknowledge that the Department's execution of the Contract will be contingent upon the Department's determination that the respondent is responsible, and that the Department will be relying upon the respondent's responses to the Questionnaire in making that determination. If it is found by the Department that a respondent's responses to the Questionnaire were intentionally false or intentionally incomplete, the Department may terminate the contract by providing ten (10) days written notification to the contractor. In no case shall such termination of the contract by the Department be deemed a breach thereof, nor shall the Department be liable for any damages for lost profits or otherwise, which may be sustained by the contractor as a result of such termination.

> **NOTE**: Vendors are encouraged to file the Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep System online at https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system.
>
> Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.ny.gov.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department or the Office of the State Comptroller's Help Desk for a copy of the paper form.

NOTE: Respondents must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids (Submission Documents).

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

9.5.2 Subcontractors:

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

9.6 Cost Liability

The State of New York and the Department will not be held liable for any costs incurred for work performed in the preparation of and production of a proposal, or for any work performed prior to the formal execution of an agreement.

9.7 Freedom of Information

The selected respondent's proposal and any contract resulting from this solicitation are subject to the provisions of Article 6 of New York State Public Officers Law, the Freedom of Information Law (NY FOIL). It is the responsibility of the Respondent to designate which components of the proposal are proprietary business information to be withheld from disclosure. A respondent may not designate its entire proposal as confidential, proprietary, or copyrighted.

9.8 Procurement Lobbying Law

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Department of Agriculture and Markets and an offerer/bidder during the procurement process. (See Submission Documents Packet, Attachment 6 -- "Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence"). An offerer/bidder is restricted from making contacts from the earliest written notice, advertisement or solicitation of the RFP through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, are identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and, in the event of two findings within a four-year period, the offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found in the Department's Guidelines, which are attached, and on the Office of General Services Website at https://ogs.ny.gov/acpl/.

The Department has designated the following staff members to receive contacts pertaining to this RFP:

John Ross or Kate Tozzi
New York State Department of Agriculture and Markets
Division of Fiscal Management
10B Airline Drive
Albany, New York 12235
E-mail: procurement.info@agriculture.ny.gov