New York State Department of Agriculture and Markets

Request for Proposals

RFP #0379

Statewide Financial System Event ID #AGM-RSFI25

for the

New York State Regional School Food Infrastructure Grant Program
2025 Round 3

Funds provide the opportunity to build long-term resiliency in New York State's School Food System.

Release Request for Proposals (RFP)	September 18, 2025
Informational Workshop	October 1, 2025
Link to register to Informational Workshop	RSFI 2025 - Informational Workshop
Question Submission Deadline	**December 12, 2025, 4PM**
Questions and Answers Posted	**December 19, 2025**
Deadline for Applications	**January 20, 2026, 3 PM**
Announcement of Grant Awards	April 2026

TABLE OF CONTENTS

1. Application Submission Requirements 3
2. Questions and Answers… 3
3. General Program Information 4
4. Project Requirements 5
5. How to Apply 6
6. Evaluation Factors 9
7. Award Process 10
8. Administrative Requirements … 11
9. Contracts and Payment Terms 12
10. Reporting Requirements 13
11. Liability 13
12. Other Requirements 13
13. Other Considerations 19
14. Freedom of Information 20
15. Debriefing 20
16. Bid Protest Procedures 20

1. APPLICATION SUBMISSION REQUIREMENTS

The New York State Department of Agriculture and Markets (the "Department") is pleased to announce the availability of funds for Round 3 of the 2025 School Food Infrastructure Competitive Grants Program. Applications for funding must conform to the format provided in the Statewide Financial System. **APPLICATIONS MUST BE SUBMITTED via the Statewide Financial System Grants Management System (SFS GM)** to be considered for funding. Faxed, mailed, or e-mailed applications will not be accepted. The name for this opportunity is **"New York State Regional School Food Infrastructure Grant– Round 3"** and the **EVENT ID is AGM-RSFI25**.

Proposals are due on Tuesday, January 20, 2026, at 3:00 pm. Late proposals will not be accepted.

2. QUESTIONS AND ANSWERS

All questions about this RFP must be submitted in writing to:

The Farm-to-School Team
Attn: Matthew Wilson
NYS Department of Agriculture and Markets
10B Airline Drive
Albany, NY 12235
E-mail: farmtoschool@agriculture.ny.gov
Fax: (518) 457-1605

All questions must be submitted by **4:00 p.m. on December 12, 2025.** Applicants must note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the program which are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will be published in the Funding Opportunities section of the New York State Department of Agriculture and Markets website (https://agriculture.ny.gov) on or before **December 18, 2025**. 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 applicants are responsible for keeping informed of any revisions to this invitation. All addenda shall be incorporated into the RFP which will be part of the awarded contract.

A non-mandatory "bidders conference" grant workshop will be held on **October 1, 2025**, at 1:00 pm. The workshop will be recorded and posted on the department's website.
Registration Link: RSFI 2025 - Informational Workshop

3. GENERAL PROGRAM INFORMATION

3.1. Program Description

The NYS Regional School Food Infrastructure Grant Program will encourage the use of fresh New York State farm products in meal preparation for K-12 school children, reduce food insecurity, increase market opportunities for New York State producers, and strengthen the resiliency of our state's food system. Additionally, this program will encourage workforce development by providing training for culinary arts, food processing, safe food handling and storage, logistics, delivery, and other community needs.

This grant program will require that facilities serve multiple school districts, support their local community, and provide workforce development opportunities. Grant funds are available for the costs of capital projects, including services, expenses, and grants for the cost of construction, renovation, alteration, rehabilitation, improvements, installation, acquisition, repair or replacement of buildings or equipment for the development of facilities to support the preparation and distribution of New York focused meals for regional school infrastructure, such as aggregation, storage hubs and/or commissary-type kitchens.

3.2. Funding Available

$50,000,000 will be available over five years, with one $5,000,000 award to each of the ten regions listed below. $10,000,000 is available for the Regional School Food Infrastructure Grant 2025 (Round 3), with two $5,000,000 awards being made to two separate regions. Once a grantee is awarded in a region, that region will be removed from consideration for future funding rounds. **Regions awarded in Rounds 1 and 2 (2023 and 2024) which are excluded from being awarded in Round 3 (2025) are Western New York, North Country, Central New York, and Long Island.** Grantees can only apply for the full amount of $5,000,000 per proposal.

The following regions will be eligible for this grant:

Finger Lakes: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates
Southern Tier: Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, Tompkins
Mohawk Valley: Fulton, Herkimer, Montgomery, Oneida, Otsego, Schoharie
Capital Region: Albany, Columbia, Greene, Saratoga, Schenectady, Rensselaer, Warren, Washington
Mid-Hudson: Duchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester
New York City: Bronx, Kings, New York, Richmond, Queens

Awarded in previous rounds and excluded from being awarded in Round 3:

Western New York: Allegany, Cattaraugus, Chautauqua, Erie, Niagara
North Country: Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, St. Lawrence
Long Island: Nassau, Suffolk
Central New York: Cayuga, Cortland, Madison, Onondaga, Oswego

4. PROJECT REQUIREMENTS

4.1. Eligible Projects:

Only capital projects necessary for construction, renovation, alteration, rehabilitation, improvements, installation, acquisition, repair or replacement of buildings, equipment, or permanent facilities for the development of facilities to support the preparation and distribution of New York-focused meals for regional school infrastructure, such as aggregation, storage hubs and/or commissary-type kitchens. For purposes of this program, a project may be a portion of a larger overall capital project. Grantees can only apply for the full amount of $5,000,000 per proposal.

4.2. Project Scope

The objective of the Regional School Food Infrastructure Grant is to provide the opportunity to build long-term food system resiliency within New York State's School Food System. Projects should be regionally focused on improving meal preparation for K-12 school children, reducing food insecurity, increasing market opportunities for New York State producers, and strengthening the resiliency of our state's food system.

Please note vended schools are not eligible for receiving USDA Direct Delivery or USDA Direct Diversion products. This is because New York State does not allow backhauling of USDA Foods. Applicants must sign and submit the Vending and Backhauling Acknowledgement Form from Office of General Services as part of their application. Please see Appendix 2.

Projects must include:

- Defined steps on how the project will increase the use of New York State farm products
- Multi-school district uses and benefits. For purposes of this grant, a district is being defined as a school or schools that are administered by the same local board of education.
- Workforce/training element and/or community use elements

4.3. Eligible Applicants

- Registered not-for-profit organizations (e.g., tax-exempt under section 501c(3) of the US Internal Revenue Code);
- Local Municipalities
- School Districts
- Boards of Cooperative Education Services (BOCES)

Applicants must be **registered and prequalified** in the Statewide Financial System Grants Management System, and the organizations' document vault must be up to date. Applicants who are not registered or whose document vaults have expired will be disqualified. See Section 5.4 below for instructions on registering, qualifying, and maintaining pre-qualification. Public schools

are exempt from pre-qualification. Registration and pre-qualification may take several weeks to complete, it is recommended to start the process as soon as possible.

4.4. Ineligible Applicants

- Entities or organizations not situated in New York State
- Private individuals
- For-Profit organizations
- Applicants targeting previously awarded regions (see section 3.2 above)

4.5. Project Duration

Project contract terms will be five years; start date will be 3/15/26.

4.6. Eligible Costs

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

- Salaries and wages directly tied to construction, planning and construction management and supervision
- Contractor services directly tied to construction, planning, and construction management and supervision
- Equipment with a useful life of at least five years or more
- Vehicles for transportation of produce or food
- Acquisition of permanent facilities
- Architectural and engineering services
- Legal services directly tied to the grant projects

4.7. Ineligible Costs:

Grant funds may not be used for the following:

- Any cost unrelated to the eligible project
- Indirect or overhead costs
- Costs associated with preparing an application
- Costs incurred before the term of the contract
- Rent or lease of land or building
- Lease of vehicles
- Insurance costs
- Purchase of food
- Salaries and wages unrelated to the proposal
- Fringe benefits
- Supplies unrelated to the capital project

4.8 Match Requirements

Applicants will need to provide a minimum of five percent (5%) of the total project costs. Matching funds may include cash, donated goods and/or services. In-kind labor is not an eligible match. The value of match must be documented by the applicant. Upon award, successful applicants will be required to provide evidence of the availability of matching

funds before a contract is issued. See Appendix 1 of this RFP for further guidance on the proper calculation of matching funds.

5. HOW TO APPLY

5.1. APPLICATION FORMAT

Applications must be submitted through the through the Statewide Financial System Grants Management System (SFS GM), https://www.sfs.ny.gov/ All sections of the application must be completed in order for you to submit your digital application.

Paper or emailed bids (applications) will NOT be accepted. Late bids will NOT be accepted.

Applicants must supply a project plan of work and project budget. The plan of work must be complete with objectives, tasks, timelines and deliverables.

Budgets should include personnel services described as “annual salary” multiplied by “% effort funded” or “hourly rate” x “anticipated hours” to equal “amount budgeted”. Equipment budgets do not need to include quotes or specific models but should describe type of equipment and use. If applicable, budget should include quotes for any proposed capital improvements.

5.2. APPLICATION CONTENT

Applicants must respond to each of the sections as provided in the Statewide Financial System Grants Management System (SFS GM), https://www.sfs.ny.gov/ to create each application to be submitted to the Department. Each application is comprised of responses to “Program Specific Questions,” a work plan and budget for the proposed project.

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

5.3. NUMBER OF APPLICATIONS

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

5.4. ACCESSING THE SFS GRANTS MANAGEMENT SYSTEM

All applicants must be registered and pre-qualified in SFS GM to submit an application. Please use this link to register and prequalify.

https://grantsmanagement.ny.gov/register-your-organization-sfs

Public schools are exempt from pre-qualification.

If you have access to login to the SFS Vendor Portal and are interested in applying for this grant, click the Log into SFS and Apply for Grant button to access the SFS Vendor portal. https://www.sfs.ny.gov/

If you do not have access to the SFS Vendor Portal and if your organization is already established within the SFS Vendor portal, an SFS Delegated Administrator has been authorized within your organization to provision user login credentials, unlock accounts, or reset passwords. Please reach out to your SFS Delegated Administrator directly.

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

If the entity is new to the SFS Vendor portal, does not have a login, and would like to establish an account for the purposes of doing business with the State of New York, contact the SFS Help Desk at 518-457-7717, 855-233-8363 or HelpDesk@sfs.ny.gov for more information.

The NYS SFS GM offers a Vendor Manual, training videos and webinars for applicants requiring assistance.

Please visit https://grantsmanagement.ny.gov/transition-SFS

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

6. EVALUATION FACTORS

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

1. **Business Plan Template (50 points)**
    a. See attached template with business plan details. The business plan should be submitted as an attachment to your application in Grants Gateway.

2. **Reasonableness of Cost (10 Points)**
    a. Are the project costs reasonable for the proposed activities? (5 pts)
    b. Is the project impact proportional to the budget requested? (5 pts)

3. **Quantification of Project Benefits (20 points)**

    a. Baseline and projected percent increase in the number of farmers, producers, distributors and/or food hubs supplying New York State farm products to schools. (15 pts)
    b. All Anticipated Project Benefits (community use, workforce development, training) as described and identified by the applicant. (5 pts)

4. **Outside Support (20 points)**
    a. What is the level of project support from the school/school district, project partners and farmers? Are Commitment Letters from farmers and schools that you will be partnering with for this project included? (20 pts)

7. AWARD PROCESS

The Department will first screen applications to ensure that they meet eligibility requirements and separate applications based on the component applied for. All proposals deemed eligible by the Department will be evaluated by a Department panel according to the Evaluation Criteria in Section 6.1; scores will be averaged and ranked in order from highest to lowest. Those proposals receiving the highest numerical scores at or above the scoring threshold of sixty-five (65), will be awarded funding until available funds are exhausted, or until all proposals are funded, whichever occurs first.

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If a tie occurs between projects, the first proposal received by the Department will be awarded. If the two tied proposals are received at the same time, a coin flip will be used to break the tie.

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

8. ADMINISTRATIVE REQUIREMENTS FOR CONTRACTING WITH NEW YORK STATE

8.1. 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.

8.2. New York State Charities Bureau Registration

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

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

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

Eligible 501(c)(3) not-for-profit corporations acting as the applicant must have a New York State Attorney General Charities Bureau Registration number or an Exemption Certificate issued by the New York State Attorney General Charities Bureau explaining why the organization is exempt from registering with the Charities Bureau.

9. CONTRACTS & PAYMENT TERMS

9.1. 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.

9.2. 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 NYS School Food Infrastructure 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 will include: (A-1) “Program Specific Terms and Conditions”; (B-3) “Capital Budget”; (C) “Work Plan”; (D) “Payment and Reporting Schedule”; and (E) “Insurance Requirements”.

9.3. 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.

All reimbursement will be subject to approval based on goals laid out in the implementation timeline submitted in the business plan with the application. The Department reserves the right to conduct annual meetings to determine if the initial timeline is being met, and to determine if the implementation timeline needs to be adjusted.

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

A New York State Claim for Payment Form must be submitted to the Department 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. The Contractor acknowledges that it will not receive payment on any Claim for Payment Form submitted under this agreement if it does not comply with the State Comptroller of New York’s electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

10. REPORTING REQUIREMENTS

10.1. Reimbursement Reports

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

10.2. 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.

10.3. 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 course of the project.

11. 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.

12. OTHER REQUIREMENTS

12.1. NYS OFFICE OF PARKS RECREATION & HISTORIC PRESERVATION REQUIREMENTS

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

12.2. NYS ENVIRONMENTAL QUALITY REVIEW ACT REQUIREMENTS

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

12.3. 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 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 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 sixty percent (60%) 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 twenty-five percent (25%) of the total value of the contract.]

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

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

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

1. 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 thirty (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 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 MWBE Contractor Compliance and Payment Report to the Department, by the tenth (10^{th}) 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.

12.4. 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 (“SDVOB”), thereby further integrating such businesses into New York State’s economy. The Department recognizes the need to promote the employment of service-disabled veterans and to ensure that certified Service-Disabled Veteran-Owned Businesses have opportunities for maximum feasible participation in the performance of Department contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition

of their economic activity in doing business in New York State, Contractors are expected to consider SDVOBs in the fulfillment of the requirements of the Agreement. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

1. Contract Goals
    a. The Department 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 Contractor should reference the directory of New York State Certified SDVOBs found at: https://sdves.ogs.ny.gov/business-search. Questions regarding compliance with SDVOB participation goals should be directed to the Department's Supplier Diversity Liaison at supplierdiversity@agriculture.ny.gov. Additionally, following Contract execution, the Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Agreement.
    b. The Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Agreement (see clause IV below).

2. SDVOB Utilization Plan
    a. In accordance with 9 NYCRR § 252.2(i), the Contractor agrees to submit a completed SDVOB Utilization Plan on Form SDVOB 100 at such time as shall be required by the Department.
    b. The Utilization Plan shall list the SDVOBs that the Contractor intends to use to perform the Agreement, a description of the work that the Contractor intends the SDVOB to perform to meet the goals on the Agreement, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Contractor acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of the Agreement for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs during the term of the Agreement must be reported on a revised SDVOB Utilization Plan and submitted to the Department.
    c. The Department will review the submitted SDVOB Utilization Plan and advise the Contractor of the Department's acceptance or issue a notice of deficiency within twenty (20) days of receipt.
    d. If a notice of deficiency is issued, the Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Department a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the Contractor and direct the Contractor to submit, within five (5) business days of notification by the Department, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for a determination of non-responsibility by the Department.
    e. The Department may deem the Contractor non-responsive under the following circumstances:

i. If the Contractor fails to submit an SDVOB Utilization Plan;
ii. If the Contractor fails to submit a written remedy to a notice of deficiency;
iii. If the Contractor fails to submit a request for waiver; or
iv. If the Department determines that the Contractor has failed to document good faith efforts.

f. The Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Agreement pursuant to the prescribed SDVOB contract goals set forth above.
g. The Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Agreement. Upon the occurrence of such a material breach, the Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

3. Request for Waiver
   a. Prior to submission of a request for a partial or total waiver, the Contractor shall speak to the Department's Supplier Diversity Liaison for guidance.
   b. In accordance with 9 NYCRR § 252.2(m), a Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. Contractor may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Department at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Contractor's waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
   c. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Agreement. Requests for a partial or total waiver of established goal requirements may be made at any time during the term of the Agreement to the Department but must be made no later than prior to the submission of a request for final payment on the Agreement.
   d. If the Department, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101), determines that the Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals. Waiver requests should be sent to the Department.

4. Required Good Faith Efforts

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

   a. Copies of solicitations to SDVOBs and any responses thereto.
   b. Explanation of the specific reasons each SDVOB that responded to the Contractor's solicitation was not selected.
   c. Dates of any pre-bid, pre-award or other meetings attended by the Contractor, if any, scheduled by the Department with certified SDVOBs whom the Department

determined were capable of fulfilling the SDVOB goals set in the Agreement.

d. Information describing the specific steps undertaken to reasonably structure the Agreement scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
e. Other information deemed relevant to the waiver request

5. Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), the Contractor is required to report Monthly SDVOB Contractor Compliance to the Department during the term of the Agreement for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 and should be completed by the Contractor and submitted to the Department Supplier Diversity Liaison, by the tenth (10^{th}) day of each month during the term of the Agreement, for the preceding month's activity to: supplierdiversity@agriculture.ny.gov.

6. Breach of Contract and Damages

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

13. OTHER CONSIDERATIONS

The Department reserves the right to:

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

14. FREEDOM OF INFORMATION

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

15. 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 John Ross, Division of Fiscal Management, via e-mail at procurement.info@agriculture.ny.gov. A review should be requested by an unsuccessful applicant within fifteen (15) calendar days of the date of the notice that its proposal was not selected for an award.

16. 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 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 the 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/.