

**REQUEST FOR PROPOSALS**  
New York State Department of Agriculture and Markets

**RFP#0131: Marketing, Advertising, and Public Relations Services For The New York State Fair and Fairgrounds, and New York State Department of Agriculture and Markets**

**1. INTRODUCTION:**

**1.1 OVERVIEW:**

This Request for Proposals (“RFP”) is issued by the New York State Department of Agriculture and Markets (“the Department” or “AGM”) to invite qualified bidders to submit proposals for marketing, advertising, and public relations services to promote the annual Great New York State Fair, as well as to assist in the promotion of the use of the Fairgrounds for non-Fair events and to provide marketing, advertising, and public relations services to the Department’s agricultural marketing and promotions programs to generate a greater demand for New York-grown and produced products. The Fairgrounds are located at 581 State Fair Boulevard, Syracuse (Town of Geddes, Onondaga County) New York. The property is owned and operated by the Department. The Department operates out of offices at 10B Airline Drive, Albany, New York. All senior Department management, including the Commissioner of Agriculture and Markets, is headquartered in this office.

**1.2 NEEDS STATEMENT:**

The Department’s mission is to foster a more competitive food and agriculture industry in New York State that benefits producers and consumers alike. It conducts programs for advertising, publicity and promotion to expand the demand for New York State food and agricultural products. The Department currently operates an advertising program, with a slogan and logo identified as the “Pride of New York.” Please visit the Pride of New York website at <http://www.prideofny.com/PONY/consumer/viewHome.do> for more information. The Department incorporates the slogan and logo into multiple advertising media and allows New York State producers of agriculture products to place the Pride of New York logo on their product labels. The Department works closely with a number of Not-for-Profit organizations that promote various segments of the New York State Agriculture Industry, and those organizations are permitted to incorporate aspects of the Department’s media campaign into their advertising. The Department also operates The Taste NY Program. This program was created to highlight the quality, diversity and economic potential of New York State’s food and beverage industry. NY foods and beverages are sold at Taste NY displays in retail stores, vending machines, travel plazas, and at consumer and trade events. Please visit the Taste NY website at <http://taste.ny.gov/> for more information.

The Department protects the state’s Agriculture Industry as well as the food security interests of New York State’s 19.5 million residents. The Department provides the Agriculture Industry with a vast array of services, including testing livestock health, testing food for purity and compliance to safety regulations, assuring competitiveness in markets within and outside the state, offering guidance and training on environmental resource management, providing training to farm owners and workers, assisting in pest management, promoting state agriculture products, funding day care services for the children of migrant and other farm workers, and a range of other programs too numerous to describe here. The Department also administers grants to farmers to fund advertising,

in which the Department's advertising is included. We strongly recommend a visit to the Department's website at <http://www.agriculture.ny.gov> for more information on the programs and services provided by the Department.

New York State is largely urban, with the majority of its citizens removed from any direct connection with farming. There is a perceived attitude of consumer complacency with regards to the security of their food supply. Consumers feel that so long as there is an abundant supply of food in grocery stores, there is no need to worry about the needs of farmers. This lack of connection is viewed as destructive to agriculture. Agriculture Industry leaders believe if consumers better understood where their food comes from, they would have a greater appreciation of, and offer increased support for, the Agriculture Industry. The current lack of attention given to agriculture by the news media, and thus the consumer, could lead to long term negative consequences for farming and the world food supply.

New York is a state with great soil and water, large consumer markets within a few hundred miles of our prime producing regions and exceptional people working at all levels to support our strong agricultural economy. We have more than 35,000 farm families working hard every day to produce food, fiber and renewable energy. Our State and its people flourish because of these businesses, which provide the foundation for more than \$25 billion to the State's economy each year. Agriculture remains as valuable today as ever and these accomplishments are a reflection of all that has been done to help grow New York agriculture and make sure that all New Yorkers have access to a safe, nutritious and affordable food supply.

New York growers and food manufacturers provide a rich and diverse array of quality fresh and processed products such as locally grown produce, syrups and sauces, cheese, honey, meats, pasta and baked goods.

The Department also operates the Fairgrounds in Syracuse, New York, which is a 375 acre site with major enclosed and heated exhibit space, numerous outdoor facilities and a concert/entertainment venue. The Fairgrounds is also the home of the annual New York State Fair, a twelve day event ending on Labor Day each year which draws approximately 950,000 persons. The annual State Fair is the showcase for the State's agriculture industry. The 2016 State Fair will take place starting on Thursday, August 25, 2016 and run through Labor Day, Monday, September 5, 2016. In addition to the annual New York State Fair, the Fairgrounds hosts shows, exhibitions, sales and other events throughout the year. Please visit <http://www.nysfair.org/year-round-events/> for a list of upcoming events scheduled to be held at the Fairgrounds.

The purpose of this RFP is to enter into a contract with a qualified Proposer to produce and provide messages and message products and to develop collateral items that inform the target populations that:

- a. The annual New York State Fair is an exciting and affordable entertainment destination appealing to all demographics.
- b. The concert/entertainment venue at the State Fair hosts nationally-known musical and comedy acts, motor sport events, athletic events, and various other entertainment.
- d. The Fairgrounds is a premier meeting, convention, and leisure destination.

- e. The Department of Agriculture & Markets is a diverse state agency that provides an assortment of programs and services.
- f. The State of New York has a robust agricultural community, which offers positive cultural and economic benefits to the State, as well as being the source of a safe and abundant food supply, serving as caretakers of the land and animals and delivering positive environmental benefits.
- g. New York State's agriculture products are of excellent quality; healthful, pure, and locally available.

**1.3 RFP GOALS:**

The goals of this RFP are to retain one contractor to provide comprehensive marketing, advertising, and public relations services for the Fair, for the marketing of non-Fair facilities, and for agricultural marketing and promotions initiatives of the New York State Department of Agriculture and Markets (AGM) which will meet the following goals of the State Fair and AGM:

a. State Fair Goals

- Increase attendance for the annual New York State Fair
- Increase the geographic reach of patrons attending the Fair throughout New York State and beyond New York State
- Increase the diversity of patrons attending the Fair
- Increase sponsorship of the Fair
- Maximize the use of the Fairgrounds from show, conference and convention rentals

b. AGM Goals

- Increase branding locally, nationally, and internationally, of New York State produce as healthful, locally produced, high quality, and good for the environment
- Increase branding of New York State agriculture products as distinct and of excellent quality
- Increase awareness of the Department's programs, presenting a powerful and positive message
- Increase awareness of the value of the Agriculture industry

**1.4 ELIGIBLE BIDDERS:**

Any bidder authorized to conduct business in New York State that can provide comprehensive marketing, advertising, and public relations services is eligible to submit a bid. Please see section 3.3 for minimum qualifications for this engagement.

**1.5 TERM:**

The contract resulting from this RFP will be for a five (5) year term. The contract will begin on January 1, 2016 and end on December 31, 2020.

**1.6 RFP TIMELINE:**

RFP Posted:	November 10, 2015
Questions regarding this RFP must be submitted by 3:00 PM on:	November 24, 2015
A Question and Answer document will be posted to <a href="http://www.agriculture.ny.gov/RFPS.html">http://www.agriculture.ny.gov/RFPS.html</a> no later than:	December 3, 2015
Bidder Response Due by 3:00 PM on:	December 10, 2015
Creative Concept Pitch "CCP"/Oral Presentation at the Department of Agriculture and Markets, Albany, NY:	December 21, 2015 and December 22, 2015
Tentative Award Date:	December 28, 2015

The Department intends to make one contract award from this RFP.

**2. DESCRIPTION OF WORK TO BE PERFORMED:**

**2.1 BACKGROUND:**

**A. The Great New York State Fair and Fairgrounds:**

The New York State Fairgrounds is a 375 acre site that is home to the annual New York State Fair as well as many non-Fair events during the year. The main mission and function of the Fair is to hold a twelve day exposition identifying, promoting and showcasing the agricultural practices, history and tradition of the state. In addition to the agricultural competitions, the Fair also hosts a large midway, several live music venues including a free music venue that can hold approximately 20,000 people. There are approximately 600 vendors including 175 food vendors.

The Fair attracts more than 900,000 patrons, with non-Fair private events drawing hundreds of thousands more. Fair entertainment includes national touring musical acts, a large Midway, more than 70 agricultural competitions, and a wide variety of food and drink, with a focus on New York-made food and beverages.

The Fair rents space on the Fairgrounds to promoters for approximately 150 privately-run events each year in addition to the 12-day Fair. These events include trade shows, festivals, and large regional horse shows. The Fair also rents space for RVs for patrons attending events on the grounds. The Department is interested in growing the number and scale of non-Fair events hosted at the Fairgrounds.

The Fair and Fairgrounds are undergoing the most significant reshaping in its long history. Governor Cuomo's \$50 million investment will revitalize the Fairgrounds in fundamental ways and alter the way the Fair has looked to consumers for the first time in generations. The Fair is likely to rebrand itself as a result of this massive change, and the opportunities to draw new, major events to the Fairgrounds outside of the Fair are significant. In addition, Onondaga County recently constructed an

amphitheater adjacent to the Fair which is intended to replace the Fair's 17,000-seat Grandstand concert venue beginning with the 2016 Fair.

**B. Agricultural and Marketing Programs of the Department:**

The Department of Agriculture and Markets is responsible for promoting an expanded demand for the State's agricultural products and has the authority to conduct programs for the advertising, publicity and general promotion of agricultural and food products that are grown, processed, packed or otherwise made within New York State.

The Taste NY Program was created to highlight the quality, diversity and economic potential of New York State's food and beverage industry. NY foods and beverages are sold at Taste NY displays in retail stores, vending machines, travel plazas, and at consumer and trade events.

The Pride of New York program identifies food and other agricultural products that have been produced and food products that have been processed within the State of New York. Since 1996, the identifying logo has been utilized by participating producers, processors, and retailers directly on the product, packaging and on point of sale material, business cards, company brochures and print and television advertising.

The Taste NY and Pride of NY marketing programs are managed and operated out of offices at 10B Airline Drive, Albany, New York, through the Agricultural Development division.

**2.2 SCOPE OF WORK/DELIVERABLES:**

The selected agency shall provide advertising and marketing services as requested and authorized by the Department, including, but not limited to:

**A. The Great New York State Fair:**

- (1) Promote and advertise the Great New York State Fair to the public, potential sponsors and concessionaires, and the entertainment industry
- (2) Create the State Fair's annual slogan
- (3) Conceive and design the Fair's annual printed materials, including but not limited to flyers, posters, and programs
- (4) Conceive, design, place, and purchase advertising for the Fair
- (5) Conceive and produce text, printed, audio, video, and digital materials
- (6) Provide advice and assistance to the Fair in the maintenance, look, and content of the Fair website, nysfair.org
- (7) Assist with design and production of signage on the Fairgrounds
- (8) Assist with sponsorship marketing efforts, including, but not limited to, promoting the State Fair's sponsorship recruitment package
- (9) Conduct an annual survey of Fairgoers and non-Fairgoers
- (10) Assist with other marketing, advertising, and public relations duties

**B. Non-Fair events at The New York State Fairgrounds:**

- (1) Advertise non-Fair events to the public, potential sponsors and concessionaires, and the general industry, including but not limited to the list of events held at the Fairgrounds found on the Fair's website at: <http://www.nysfair.org/year-round-events/>
- (2) Prepare and annually update a client/promoter sales package, as needed
- (3) Assist as needed in identifying potential events

**C. Taste NY, Pride of NY, and other agricultural promotion programs of the New York State Department of Agriculture and Markets:**

- (1) Refine goals and objectives for Department programs (branding, message development, etc.)
- (2) Develop and implement program strategies related to consumer marketing, advertising, and public relations
- (3) Design, prepare, and produce creative materials
- (4) Evaluate and refine the approach and execution of existing advertising programs, including but not limited to, evaluate the impact on consumers of existing “Taste NY” and “Pride of New York” advertising programs
- (4) Design and develop website
- (5) Provide fulfillment services for signage and promotion items related to Department marketing programs
- (6) Provide guidance on the purchase and placement of advertising in selected media and markets
- (7) Assist in planning and implementing special events and trade shows
- (8) Recommend the best use of financial and staff resources available to support the Department’s programs

**D. The overall mission of the Department of Agriculture and Markets**

- (1) Conceive and execute marketing campaigns and conceive, create, and fulfill the related marketing materials needed to further the Department’s mission and goals
- (2) Create a compelling advertising campaign that increases public awareness of and support for the work of the Department and the Agriculture Industry
- (3) Work with the Department to develop an overall strategy to achieve the goals described in Section 1.3 above in the most cost efficient manner
- (4) Analyze local, regional and national research to recommend the best strategies and promotions
- (5) Participate in the creation and placement of Marketing Order advertisements for various sectors of the agricultural economy (i.e. apples, onions, sour cherries, cabbage, and milk)
- (6) The work may include, but is not limited to:
  - Media production services, including creative concept, graphic design, photography, copywriting, printing, production and post-production of film, print, radio, video, social, and other media
  - Public relations and publicity services, including creative concept, copywriting, and placement/pitching
  - Media buying services, for the purchase of time or space in media outlets for the placement of advertising including but not limited to pre-buy analysis, planning, negotiating best rates and placements, tracking and post-buy analysis
  - Advice and counsel to the Department on matters pertaining to advertising, marketing, and public relations
  - Tracking and post-buy analysis
  - Any and all other functions of a full service advertising and marketing agency that are necessary to achieve the goals described above
  - Coordination of efforts with and support efforts of other state agencies with interests in the Department, the Fair, and/or the Fairgrounds

**E. Media Types:**

Deliverables include, but are not limited to:

- Pre-recorded television advertising
- Pre-recorded radio advertising
- Print display advertising
- Banner and other online display advertising
- Online “native” advertising (paid content)
- E-mail newsletters
- Print and electronic publications, such as the annual Fair Guide
- Flyers and brochures
- Trade show displays
- Public signage
- Raw video, audio, or photos

**F. Annual Advertising Plans:**

Prior to the start of each fiscal year (April), the Fair and AGM will provide the selected agency with an annual budget and business priorities and goals. Within thirty (30) days of receiving said budget and business priorities and goals from the Fair and AGM, the selected agency shall prepare and provide a written annual advertising plan for the Fair and AGM. The annual advertising plan must be approved by the Fair and AGM and must include at a minimum the following:

- (1) Innovative approaches for planned business initiatives, including how these strategies achieve the Department’s goals with measurable Key Performance Indicators (KPIs) for post-initiative evaluations.
- (2) A general breakdown of proposed spending for professional services, production, and media.
- (3) Opportunities for special events, promotional activities, and any other topics specified by the Department.

**G. Performance Measures:**

The selected agency shall work with the Department to:

- (1) Develop strategic plans that include measurable KPIs for monitoring the extent to which marketing, public relations, and advertising efforts have had a positive impact on desired outcomes.
- (2) Set specific targets, goals, and benchmarks for evaluating performance outcomes and use these measures to monitor program performance.
- (3) Evaluate the program outcomes associated with marketing, public relations, and advertising efforts on a quarterly basis, and use this information to adjust program goals, strategies, and resource allocations as needed.

**H. Advertising Effectiveness Analysis/Optimization:**

The Department will evaluate the effectiveness of all advertising initiatives upon completion based on KPIs and measurement tools established with the Department prior to the development of any campaign. KPIs may include improvements in participation (increased attendance), increased website traffic, frequency and awareness measures, sales goals or other criteria determined as “What success looks like” by the Department prior to the development of the work and detailed in the annual plan objectives.

**I. Post-Campaign/Promotional Report:**

In the quarter following the conclusion of a campaign phase or promotional event, the selected agency shall provide a recap of the initiative, including total expenses and performance against established KPIs to assist the Department in the evaluation of its success.

**J. Deliverables Time-line:**

- *Annual Advertising Plan* - Within thirty (30) days receipt of the Fair’s and AGM’s annual budget and business priorities and goals per Section 2.2(F) above.
- *Post-Campaign/Promotional Report* – In the quarter following the conclusion of a campaign phase or promotional event pursuant to Section 2.2(I) above.
- *Creative* - The selected agency shall plan creative development schedules that allow sufficient time for developing and presenting integrated creative solutions, editing and revising selected options, obtaining final approvals from the Fair or AGM staff, producing the final product, and distributing the finished product according to the Fair or AGM specifications. Creative development timescales should also allow for concept and script refinement, through qualitative testing ensuring target audience message clarity, general comprehension and appeal. Unless otherwise approved by the Fair or AGM, all timelines shall include a minimum of 5 working days for approval by the Fair or AGM at every stage of each job or project. The selected agency shall provide detailed production schedules with task milestones for each job. Prior to conference calls between the selected agency and the Fair or AGM, all required materials must be sent via email no later than 1 hour before the call unless otherwise approved by the Fair or AGM. The Fair and AGM will not be responsible for any additional costs incurred as a result of the selected agency’s failure to adhere to set timelines.

**K. Ownership of Contract Work Product:**

All materials produced, created, improved, maintained, or conceived by the Contractor for the Department during the term of the Agreement, including but not limited to any software, website creation and development, documentation, products, materials, advertising for television, radio, print, internet or other media, and deliverables which result from services rendered by the Contractor to the Department shall be turned over to the Department within ninety (90) days of the expiration of the Agreement, or within thirty (30) days of early termination of the Agreement, at no additional cost to the Department. The Department shall own all rights, title, and interest in said material.

### 2.3 AGM RESPONSIBILITIES:

The Department will assign a contract manager per program area to authorize work and monitor the program area's portion of the contract, and approve work and authorize payment for work created by the Contractor for the Department.

The contract is non-exclusive; the Department may contract with another firm for specialized services and reserves the right to use its own in-house capabilities for advertising and promotional efforts.

## 3. PROPOSAL FORMAT, CONTENTS AND SUBMISSION:

### 3.1 SUBMISSION TIMELINE:

All proposal submission documents required to be responsive for proposal evaluation must be received by the Department no later than 3:00 PM on December 10, 2015 in order to be considered. All remaining forms and documents required to be completed after notification of selection is made shall be submitted to the Department by the selected contractor prior to execution of the contract.

Any questions concerning this RFP must be received by 3:00 PM on November 24, 2015. Questions must be submitted in writing. Email is preferred and should be directed to the designated contacts for this procurement at [procurement.info@agriculture.ny.gov](mailto:procurement.info@agriculture.ny.gov) (Attn: Judy Giovannetti, Carrie Lindemann, Kim Carr). Please list RFP#0131 in the subject line. In the alternative, questions may be mailed to: NYS Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, NY 12235 Attn: Judy Giovannetti, Carrie Lindemann, Kim Carr (RFP#0131).

A Question and Answer document will be posted to the Department website at: <http://www.agriculture.ny.gov/RFPS.html> under "Current Funding Opportunities" no later than December 3, 2015. No individual written responses will be provided.

Any revisions to this RFP will be posted on the Department's website, under "Current Funding Opportunities" at <http://www.agriculture.ny.gov/RFPS.html>. All bidders are responsible for keeping informed of any revisions to this RFP. All questions and answers shall be incorporated into the RFP which will be part of the awarded contract. If you are unable to access the Department's website, please contact Judy Giovannetti, Carrie Lindemann, or Kim Carr at [procurement.info@agriculture.ny.gov](mailto:procurement.info@agriculture.ny.gov) to arrange for alternate delivery. You may also contact Judy Giovannetti, Carrie Lindemann, or Kim Carr at the mailing address noted above.

### 3.2 SUBMISSION METHOD:

Facsimiles or emailed copies are not acceptable. Materials received after the due date/time shall be returned unopened to the sender. See section 3.8 Submission Documents for information on completing a bid response.

Mail or Hand-Deliver a Bid Response Containing:

**Technical Proposal:** original plus four (4) paper copies of the completed Technical Proposal must be mailed or hand-delivered in a separate envelope labeled **RFP#0131 Technical Proposal – Do Not Open** and must include the following, as outlined below:

All Forms and Assurances located in the **Submission Documents** packet, original plus one (1) copy, including original signatures where necessary:

- Cover Sheet and Checklist for Bid Response and Minimum Qualifications (Original Signatures)
- Mandatory Contract Requirements Certification Form (Original Signatures)
- Non-Collusive Bidding Certification (Original Signatures)
- MacBride Nondiscrimination Certification Form (Original Signatures)
- Procurement Lobbying Law Forms (Original Signatures)
- Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)

**Cost Proposal:** original plus four (4) paper copies of the completed Bid Form cost proposal must be mailed or hand-delivered in a separate envelope labeled **RFP#0131 COST PROPOSAL – DO NOT OPEN** and must include the following as outlined below:

- Bid Form and Subcontracting Form with additional pages, if required (Original Signatures)

**MWBE/EEO Documents:** completed MWBE/EEO Documents must be mailed or hand-delivered in a separate envelope labeled **RFP#0131 MWBE/EEO DOCUMENTS – DO NOT OPEN**

To the following address:

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

**ATTN: Judy Giovannetti, Carrie Lindemann, Kim Carr (RFP#0131)**

### **3.3 MINIMUM QUALIFICATIONS:**

To be considered:

1. The Proposer must be authorized to do business in New York State. If the Proposer is:
  - a corporation or limited liability company formed under New York Law, submit a copy of your current New York State Department of State registration.
  - a corporation or limited liability company formed under the laws of another state or a foreign jurisdiction, submit a copy of your current authorization to do business in New York.
  - a limited partnership or a limited liability partnership, submit a copy of your current New York State Department of State registration.
  - a general partnership or individual doing business under an assumed name, submit a copy of your assumed name certificate stamped to show the date of filing with the clerk of the county in which you conduct business.
2. The Proposer must be a going concern with a minimum of five (5) years' experience in the advertising industry. The Proposer must have the ability to perform the functions of a full-service agency that can handle all marketing, advertising, and public relations duties in-house or through subcontractors. For purposes of this RFP, a full service advertising agency is defined as a company that provides the services described in Section 2.2 of this RFP including assisting with annual

strategic communications planning, creation of marketing, advertising, and public relations materials, media buying, point-of-sale and public display conception and creation, social media and online media expertise, website development and design, and database acquisition and deployment.

Any bidder who fails to meet any of these qualifications will be disqualified.

### **3.4 MANDATORY CONTRACT REQUIREMENTS**

Each bidder must certify that:

1. No other obligation or engagement, contractual or otherwise, will impact the selected contractor's ability to provide advertising, marketing, and public relations services during the contract period.
2. The 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 Contractor, its agents, servants, employees and those acting for or on its behalf. Such indemnity shall not be limited by reasons of any insurance coverage provided.
3. The selected contractor will obtain and maintain the following policies from an insurance company authorized to do business in the State of New York:
  - a) Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such insurance shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages, with no modification to the contractual liability coverage provided therein. Coverages shall include liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage. If such insurance contains an aggregate limit, it shall apply separately on a per location or per project basis.
  - b) Professional Liability Insurance with a limit of not less than \$1,000,000.
4. The selected contractor will use state-authorized branding guidelines in the preparation of all materials. Branding guidelines will be provided to the selected agency.
5. The selected contractor agrees to comply with "Appendix A, Standard Clauses for New York State Contracts," a copy of which is included in the Submission Documents.

### **3.5 TECHNICAL PROPOSAL: (Maximum score – 70 points)**

See section 3.2 Submission Method for information on packaging the proposal. The proposal should describe the bidder's approach to performing Marketing, Advertising, and Public Relations Services and address all of the elements below.

- A. Experience and Key Personnel (Maximum Score –15 points)

The qualifications and prior experience of the bidder are of great importance to AGM. The bidder should describe its direct, prior experience in the provision of advertising, marketing, and public relations services. Please include what distinguishes your company in the industry, and whether or not your company participates in any trade organizations. This experience should be relevant and should be for operations comparable in scale and scope to that of the New York State Fair and the Department of Agriculture and Markets. The proposal should include an organizational chart of the bidder's agency showing all divisions, sections or units including executive, creative, public relations, media department, accounting and other programmatic functions. Resumes of key personnel, partners, or subcontractors should be included as well as an organizational chart which shows all personnel who will be involved with the contract awarded from this RFP, and the percentage of their time expected to be devoted to the contract. The selected contractor must obtain prior written approval from the Department for any change in personnel assigned to this engagement. The bidder should affirmatively state whether the bidding firm and/or key personnel have worked for any New York State agency or department, as an employee, contractor, or subcontractor.

B. Creative Examples and Case Histories (Maximum Score – 20 points)

The bidder should provide a visual portfolio on DVD or flash drive of examples of creative work performed for and used by its clients. Brief descriptions may accompany creative items in the portfolio. The portfolio should address the breadth of the bidder's capabilities in all forms of media and marketing. The bidder should also provide three case histories demonstrating proficiency in all aspects of marketing, advertising, and public relations. Describe how the bidding firm's ideas and implementation helped to achieve the clients' goals. Please describe or show how success in achieving the clients' goals were measured.

C. Creative Concept Pitch "CCP"/Oral Presentation (Maximum Score – 20 points)

The bidder should provide an in-person presentation to the Technical Evaluation team, not to exceed one (1) hour. The bidder's agency should demonstrate how it would promote the 2016 Fair to regional markets that surround the Syracuse market, in order to increase attendance from those regional markets, as one campaign in the overall marketing campaign for the Fair. Markets include Rochester, Binghamton/Elmira, Utica/Rome, and Watertown. According to the Fair's 2014 Fairgoer survey, the Fair's share of attendance from those regions that year were: Rochester, 5%; Southern Tier (Binghamton/Elmira), 5%; Utica Area, 3%; and Watertown, 1%. The presentation should consist of:

- (1) An overall concept
- (2) The strategy for convincing people in those markets to consider a trip to the Fair
- (3) A discussion of the obstacles to overcome
- (4) The goal(s) for the campaign
- (5) Specific sample marketing and advertising materials to be used in such a campaign to make clear the strategy and implementation of bidder's proposal
- (6) An explanation/justification as to why the bidder believes the type(s) of marketing and advertising materials they propose to implement will best serve to increase attendance at the Fair from those regional markets
- (7) A sample budget and timeline for the campaign

The "CCP"/oral presentations will be scheduled on December 21st and 22nd, 2015, and will be held at the Department's main office located at 10B Airline Drive, Albany, New York, 12235. The "CCP"/oral presentation will be worth a maximum of twenty (20) points of the Overall Technical score.

D. Account Management Staffing Plan (Maximum score – 5 points)

The bidder should provide its plan for staffing and managing the Department's account, by department, with the percentage of time allocated for each individual to service the Department's account indicated.

E. References (Maximum Score- 5 points)

The bidder must provide a minimum of three (3) verifiable references that can substantiate the quality of the bidder's work and service. References should be from clients in which the bidder provided similar work as that requested in this RFP with annual billing at or above \$100,000. The references must include the name, title, address and phone number of each reference, the length of the relationship, and a detailed description of the services provided. Note: Bidders are solely responsible for the availability of the submitted references. References will be contacted by the Department.

F. Performance Measures (Maximum score – 5 points)

The bidder should describe its plan for monitoring the extent to which its marketing, public relations, and advertising efforts have a positive impact on the Department's desired outcomes. The plan should include specific KPI's that the bidder will employ to evaluate its marketing, public relations, and advertising plan (i.e. identify targets, goals and benchmarks for evaluating performance outcomes and what measures bidder will use to provide the Department with relevant information to monitor program performance).

**3.6 COST PROPOSAL: (Maximum score – 30 points)**

A five-year contract will be awarded. The Fair's annual marketing budget has ranged in recent years from \$750,000 to \$962,000. The Department's agricultural development division estimates its annual marketing budget will be approximately \$150,000.

The cost proposal must be submitted on the "Bid Form" included in the Submission Documents section as Attachment 1. This will facilitate the comparison of bidders for the cost component of the overall score. Bidders who do not fully complete and submit the attached Bid Form may be disqualified. Bidders may not alter the Bid Form. Bidders are required to use the titles provided on the Bid Form to calculate their bid prices, even if these titles are not consistent with the Bidder's existing titles. A description of titles is provided on the Bid Form. Hourly rates should be single numbers, not a range of rates, and shall be inclusive of all costs including but not limited to travel, benefits, licenses, insurance, administrative, profit and other ancillary costs.

In accordance with Section 41 of the New York State Finance Law, the total annual cost will be capped at the amount appropriated each year by the New York State Legislature. The bidder awarded the contract will only be paid for the actual number of hours expended and for commission on actual media and production services provided. All requests for payment shall be accompanied with a detailed invoice and supporting documentation evidencing the service(s) provided and shall include

the names and titles of personnel performing the work, hourly rates, and a description of the services/work provided.

Preparation of billing and invoicing is not a reimbursable expense and should not be a part of the cost structure of any proposal.

In accordance with the attached Bid Form:

1. State the name of each professional assigned to this engagement, the number of hours anticipated to be expended for each title to provide the services set forth in Section 2.2 of this RFP, and the hourly rate for each title inclusive of all costs including but not limited to travel, licenses, insurance, administrative, profit and other ancillary costs. Multiply the number of hours times the hourly rate for each professional title listed and provide a total for all personnel costs. (12 points)
2. State the commission, expressed as a percentage of the cost to be charged by the bidder on media purchased by the bidder in and on newspapers, periodicals, television, radio and billboards. (12 points)
3. State the commission, expressed as a percentage of the cost to be charged by the bidder for production costs incurred for the Department by the bidder for artwork, layouts, engravings, electrotypes, plastic plates, typography, mats, photostats, photo prints, photography, retouching, printing, mechanicals, transcriptions, storyboards and radio talent. (6 points)

### **3.7 CALCULATION OF THE SCORE FOR COSTS**

The cost proposal represents 30 points of the overall score and will be awarded pursuant to a formula. This calculation will be computed by Fiscal Management independently of the technical scoring by the evaluation committee.

The submitted cost information will be awarded points, pursuant to a formula which awards 12 points to the bidder who offers the lowest personnel costs; 12 points to the bidder who offers the lowest percent commission on media, and; 6 points to the bidder who offers the lowest percent commission on production.

The remaining bids will be awarded points based on the calculation below that computes the relative difference between each bid and the lowest bid received for each criterion. The combined points for personnel costs, percent commission on media, and percent commission on production will represent each bidder's final cost score.

**Examples of Cost Score Calculation: Points=(lowest bid divided by the bid being evaluated) x cost points**

BIDDER	PERSONNEL COSTS BID	NUMBER OF COST POINTS (MAXIMUM 12 POINTS)	PERCENT COMMISSION ON MEDIA BID	NUMBER OF COST POINTS (MAXIMUM 12 POINTS)	PERCENT COMMISSION ON PRODUCTION BID	NUMBER OF COST POINTS (MAXIMUM 6 POINTS)	TOTAL COST SCORE
A	\$120,000	$(100,000/120,000) \times 12 = 10$	6	12 (lowest bid)	6	6 (lowest bid)	28
B	\$125,000	$(100,000/125,000) \times 12 = 9.6$	10	$(6/10) \times 12 = 7.2$	10	$(6/10) \times 6 = 3.6$	20.4
C	\$118,000	$(100,000/118,000) \times 12 = 10.17$	12	$(6/12) \times 12 = 6$	12	$(6/12) \times 6 = 3$	19.17
D	\$100,000	12 (lowest bid)	9	$(6/9) \times 12 = 8$	9	$(6/9) \times 6 = 4$	24

**3.8 SUBMISSION DOCUMENTS**

Bidders must submit all proposal submission documents required to be responsive for proposal evaluation by the bid response due date. The packet of submission documents is annexed to this solicitation and also available on the Department’s website. The submission must include paper documents of the technical proposal, bid form cost proposal and required assurances and documentation.

Proposals should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond what is required to provide a complete presentation. If supplemental materials are a necessary part of the proposal, the bidder should reference these materials in the technical proposal, identifying the document(s) and citing the appropriate section(s) and page(s) to be reviewed. Any proprietary material considered confidential by the bidder must be specifically so identified, and the basis for such confidentiality must be specifically set forth in the proposal. Be advised that the Department is subject to the Freedom of Information Act as codified in the New York State Public Officers Law.

**4.0 EVALUATION CRITERIA AND METHOD OF AWARD:**

**4.1 CONSIDERATION:**

For a bidder to be eligible for consideration, it must meet the Minimum Qualifications. To be awarded a contract, the bidder must certify that it will meet the Mandatory Contract Requirements.

**4.2 CRITERIA FOR EVALUATING BIDS**

All complete proposals received by the deadline will be reviewed using the following criteria and ratings. Bidders should ensure that all components of this request for proposals have been addressed, the required number of copies should be provided, all forms and assurances have been completed, and the original signatures, preferably in blue, are included as required.

A proposal will first be reviewed by AGM staff to ensure that the proposal is complete, and that all of the minimum qualifications have been met.

An evaluation committee will complete a review of the Technical Proposals for all complete proposals submitted that meet the minimum qualifications. The committee will review each Technical Proposal to determine compliance with the requirements described in the RFP.

All proposals received by eligible and qualified bidders will be evaluated. All eligible and qualified bidders must be prepared to provide an oral presentation of its Creative Concept Pitch (CCP) per Section 3.5(D) of this RFP. The CCP/oral presentation will be scored by members of the evaluation committee and will be worth a maximum of 20 points of the overall Technical Criteria. Oral presentations will be held at the Department's main office located in Albany, New York.

**Technical Criteria (70%)**

Technical Proposal	70 points
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**Cost Criteria (30%)**

Cost Proposal	30 points
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**Maximum Score - 100 points**

**4.3 METHOD OF AWARD**

The Department intends to make a single contract award to the eligible and qualified Bidder whose proposal results in the highest aggregate technical and cost score. The aggregate score of all the criteria listed will be calculated for each proposal received. The contract issued pursuant to this proposal will be awarded to the proposal whose aggregate technical and cost score is the highest among all the proposals rated. In the event of a tie score, the award will go to the bidder with the highest technical score.

**5.0 CONSIDERATIONS RELATED TO THIS INVITATION:**

**5.1 DEPARTMENT'S RESERVATION OF RIGHTS:**

The Department reserves the right to:

- Reject any or all proposals received with respect to this invitation;
- Withdraw the RFP at any time, at the Department's sole discretion or otherwise decline to award a contract from this invitation;
- Make an award in whole or in part;
- Require clarification from any bidder to assure a full understanding of the responsiveness to the requirements of the invitation;
- Disqualify any bidder whose conduct and/or bid response fails to conform to the requirements of the RFP;
- Use proposal information obtained through site visits, management interviews and the State's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder 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 bids received;
- Request additional information from bidders as deemed necessary to more fully evaluate bids or to obtain omitted required forms. Bidders will have three (3) business days to respond to the request;
- Prior to the bid opening, 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 bid opening, direct bidders to submit bid response modifications addressing subsequent RFP amendments;
- Change any of the scheduled dates;
- Eliminate any minimum or mandatory, non-material specifications that cannot be complied with by all of the bidders;
- 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; and
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 120 days from the bid opening.

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

### **POLICY STATEMENT**

The New York State Department of Agriculture and Markets (AGM), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority and women-owned business enterprises have opportunities for maximum feasible participation in the performance of AGM contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that AGM establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

## **EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS**

By submission of a bid in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A, "Standard Clauses for New York State Contracts," including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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 Contractor, shall 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 this Contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the bid an equal employment opportunity staffing plan on **Form MWBE/EEO2** identifying the anticipated work force to be utilized on the Contract and if awarded a contract, will, upon request, submit to AGM, a workforce employment utilization report on **Form MWBE/EEO3**, identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and 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 (including gender expression), 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.

## **BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs)**

### **A. MWBE CONTRACT GOALS**

For purposes of this procurement, AGM hereby establishes a goal of **15%** for Minority-owned Business Enterprises (MBE) participation and **15%** for Women-owned Business Enterprises (WBE) participation (collectively referred to as MWBE) for a total Contract MWBE goal of **30%**. The total Contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/frontend/diversityusers.asp>. Questions regarding compliance with MWBE participation goals should be directed to the AGM Office for Minority and Women Owned Business Enterprises Designated Contacts identified in the MWBE/EEO Submission Documents.

A Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract (see clause E below) and ensure that the MWBEs utilized under the Contract perform commercially useful functions (see clause B below). Contractor agrees that AGM may withhold payment pending receipt of the required MWBE documentation.

## **B. COMMERCIALY USEFUL FUNCTION REQUIREMENT**

Pursuant to 5 NYCRR § 140.1(f), a MWBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, a MWBE must, where applicable and in accordance with any State Agency specifications, also be responsible, with respect to materials and supplies used on the contract, for ordering and negotiating price, determining quality and quantity, and installing. A MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation. AGM will assess whether a MWBE is performing a commercially useful function by considering the following:

- (1) the amount of work subcontracted;
- (2) industry practices;
- (3) whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;
- (4) the credit claimed towards MWBE utilization goals for the performance of the work by the MWBE;
- and,
- (5) any other relevant factors.

## **C. By submitting a bid, Bidder/Contractor agrees to the following:**

### **(1) Breach of Contract and Liquidated Damages**

In accordance with 5 NYCRR §142.13, Bidder/Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and AGM may withhold payment from the Contractor 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.

### **(2) Utilization Plan**

a. **Bidders are required to submit a completed MWBE Utilization Plan on Form MWBE/EEO4 with their bid.** The Utilization Plan shall list the MWBEs the Contractor intends to use to perform the State Contract, a description of the Commercially Useful Function the Contractor intends the MWBE to perform to meet the goals on the State Contract, the estimated or, if known, actual dollar amounts to be paid to a MWBE, and performance dates of each component of a State Contract that the Contractor intends to be performed by a MWBE. By signing the Utilization Plan, the Bidder acknowledges that the utilization of MWBEs that do not perform commercially useful functions may not be counted as meeting the MWBE goals of the Contract; and, that making false representations or including information evidencing 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 NYS Certified MWBEs after the Contract Award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to AGM.

b. AGM will review the submitted MWBE Utilization Plan and advise the awarded Bidder of AGM acceptance or issue a notice of deficiency within twenty (20) days of receipt.

c. If a notice of deficiency is issued; Bidder agrees that it shall respond to the notice of deficiency, within seven (7) 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 and direct the Bidder to submit, within five (5) business days of notification by AGM, a request for a partial or total waiver of MWBE participation goals on **Form MWBE/EO5**. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

**(3) AGM may disqualify a Bidder's bid as being non-responsive under the following circumstances:**

- (a) If a Bidder fails to submit a MWBE 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.

**D. Request for Waiver**

(1) A Bidder who is able to document good faith efforts to meet the goal requirements, as set forth in clause E below, may submit a request for a partial or total waiver on **Form MWBE/EO5**, accompanied by supporting documentation, at the same time it submits its MWBE Utilization Plan. If a request for waiver is submitted with the MWBE Utilization Plan and is not accepted by AGM at that time, the provisions of clauses C(2)(b& c) and C(3) above will apply.

(2) Contractor shall 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 AGM, but must be made no later than prior to the submission of a request for final payment on the Contract.

**(3) Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the AGM Office for Minority and Women Owned Business Enterprises Designated Contacts identified in the MWBE/EEO Submission Documents.**

**E. Required Good Faith Efforts**

Pursuant to 5 NYCRR § 142.8, evidence of required good faith efforts shall include the following:

(1) A list of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.

(2) A list of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.

(3) Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.

(4) A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.

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

(6) Other information deemed relevant to the request.

#### **F. Quarterly MWBE Contractor Compliance Report**

Contractors are required to submit a Quarterly MWBE Contractor Compliance Report on Form MWBE/EEO6 to AGM by the 10<sup>th</sup> day following each end of quarter over the term of the Agreement documenting the progress made towards achievement of the MWBE goals of the Agreement. Contractors will also be required to submit utilization plans, request subcontractors, and communicate with their project manager throughout the term of the Agreement using the New York State Contract System (“NYSCS”). The NYSCS is the tool that New York State uses to monitor MWBE participation in state contracting. More information on reporting responsibilities and use of the NYSCS is included in the Submission Documents and is available on the NYCS website (<https://ny.newnycontracts.com>).

**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. **ALL FORMS ARE INCLUDED IN THE SUBMISSION DOCUMENTS AND ARE ALSO AVAILABLE AT:** <http://www.agriculture.ny.gov/MWBE.html>.

### **5.3 SUBCONTRACTING**

NYS Department of Agriculture and Markets (AGM) will contract only with the successful Bidder who is the Prime Contractor. AGM considers the Prime Contractor, the sole Contractor with regard to all provisions of the solicitation and the contract resulting from the solicitation. If subcontractors are used it shall be understood that the bid price includes the cost of the subcontractor(s) and no additional markups will be allowed. No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this RFP or the resultant contract. The Contractor accepts full responsibility for the actions of any employee or subcontractor/subcontractor’s employee(s) who carry out any of the provisions of any contract resulting from this RFP. The Contractor’s use of subcontractors shall not diminish the Contractor’s obligations to complete the work in accordance with the contract. The Contractor shall coordinate and control the work of the subcontractors. The Contractor shall be responsible for informing the subcontractors of all terms, conditions, and requirements of the contract documents.

Contractor shall not subcontract any work required under this procurement without first obtaining prior written approval from the Department. Any proposed subcontract under this Agreement shall be provided to the Department in writing on or before April 1<sup>st</sup> each year, and shall be approved in writing

by the Department, and shall clearly describe the goods or services to be provided and the total cost of such goods or services. Subcontracts for services only shall separately state the rate of compensation on a per-hour or per-day basis. The Contractor shall promptly furnish information as requested by the Department concerning the proposed subcontractor's ability and qualifications.

#### **5.4 PRICE ADJUSTMENT**

The hourly rates agreed upon in the contract on the Bid Form may be increased up to the same percentage as the change in the U.S. city average, Consumer Price Index (All Items) for All Urban Consumers (CPI-U), not to exceed 3 %, during the 12 calendar months ending December 31<sup>st</sup> of the previous contract year, as reported by the U.S. Department of Labor Bureau of Labor Statistics in the CPI Detailed Report. It shall be the responsibility of the Contractor to annually request a payment change based upon the CPI, not to exceed 3%, which may be granted at the sole discretion of the Department. Requests for changes must be submitted in writing 90 days prior to December 31<sup>st</sup> each year. Only one price adjustment per year will be granted at the sole discretion of the Department. The Department reserves the right to request a price decrease should the relevant index referenced herein decrease. The percent commissions on media and production set forth on the Bid Form shall be fixed for the five year Term of this Agreement and are **not** subject to this price adjustment clause.

#### **5.5 NOTIFICATION OF AWARD**

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

#### **5.6 DEBRIEFING PROCEDURES**

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful bidder has the right to a debriefing. An unsuccessful bidder must request a debriefing within five (5) business days of receiving a notice of non-award from the Department. Bidders may request a debriefing letter on the selection process regarding this procurement by submitting a written request to Judy Giovannetti at:

NYS Department of Agriculture and Markets  
Fiscal Management  
10B Airline Drive  
Albany, NY 12235  
Or via email: [judy.giovannetti@agriculture.ny.gov](mailto:judy.giovannetti@agriculture.ny.gov)

The Fiscal Contact person will make arrangements with program staff to provide a written summary of the proposal's strengths and weaknesses, as well as recommendations for improvement. Within ten (10) business days of receipt of the request, the program staff will issue a written debriefing letter to the bidder.

#### **5.7 BID PROTEST PROCEDURES**

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

1. 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

2. The protest must be filed within ten (10) business days of receipt of a debriefing letter, or ten (10) business days of receipt of the notice of non-award, whichever is later. The protest letter must be filed with Judy Giovannetti at:

NYS Department of Agriculture and Markets  
Fiscal Management  
10B Airline Drive  
Albany, NY 12235  
Or via email: [procurement.info@agriculture.ny.gov](mailto:procurement.info@agriculture.ny.gov)

3. Fiscal Management will convene a review team that will include at least one staff member from each of the Department's Counsel's Office, Fiscal and the Program Division. 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, and Fiscal Management will advise OSC that a protest was filed.
4. 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, 11<sup>th</sup> 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/>.

#### **5.8 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.

#### **5.9 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.

#### **5.10 VENDOR RESPONSIBILITY AND NYS VENDOR ID**

##### **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](http://www.osc.state.ny.us/vendrep/resources_docreq_agency.htm)

All bidders must fully and accurately complete the Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"). All bidders acknowledge that the Department's execution of the Contract will be contingent upon the Department's determination that the bidder is responsible, and that the Department will be relying upon the bidder's responses to the Questionnaire in making that determination. If it is found by the Department that a bidder'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: Bidders 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](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>.

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 [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us).

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep](http://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.

**Subcontractors:**

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a Department vendor responsibility review are required for a subcontractor where:

- the subcontractor is known at the time of the contract award;
- the subcontractor is not an entity that is exempt from reporting by OSC; and
- the subcontract will equal or exceed \$100,000 over the life of the contract

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

**5.11 COST LIABILITY**

The State of New York, the Department and the Division of the New York State Fair assume no responsibility or liability for the costs incurred by the Bidders in preparing and submitting their bids in response to this solicitation.

**5.12 FREEDOM OF INFORMATION**

The selected contractor's bid response 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 Bidder to designate which components of the bid response are proprietary business information to be withheld from disclosure. A bidder may not designate its entire bid response as confidential, proprietary or copyrighted.

### **5.13 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 Attachment 5 -- "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

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

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

Judy Giovannetti  
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](mailto:procurement.info@agriculture.ny.gov)

Carrie Lindemann  
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](mailto:procurement.info@agriculture.ny.gov)

Kim Carr  
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](mailto:procurement.info@agriculture.ny.gov)

#### **5.14 RECOMMENDED SUBMISSIONS**

The following forms are not required to be submitted with the bid response. Nevertheless, Bidders are encouraged to submit these forms in order to expedite contract execution if the bidder is awarded the contract.

##### **AGM Substitute Form W-9**

Any payee/vendor/organization receiving Federal and/or State payments from the Department must complete the Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized vendor file.

The Department is using the Substitute Form W-9 to obtain certification of a vendor's Tax Identification Number in order to facilitate a vendor's registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

##### **Workers' Compensation Coverage and Debarment**

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 WCL. The WCL requires, and has required since introduction of the law in 1922, 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 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.

##### **PROOF OF COVERAGE REQUIREMENTS**

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 NYS 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, Division of the New York State Fair, 581 State Fair Boulevard, Syracuse, NY 13209 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

For additional information regarding workers’ compensation and disability benefits requirements, please refer to the New York State Workers’ Compensation Board website at: <http://www.wcb.ny.gov/content/main/Employers/busPermits.jsp>. Alternatively, questions relating to either workers’ compensation or disability benefits coverage should be directed to the NYS Workers’ Compensation Board, Bureau of Compliance at (518) 486-6307.

#### **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 which 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. Contractors 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](http://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](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](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)

**Please note that although these forms 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.**

## 6. REQUIRED ASSURANCES

### 6.1 SUBMISSION DOCUMENTS

Appendix A- Standard Clauses for all New York State Contracts WILL BE INCLUDED in the contract that results from this RFP. Bidders who are unable to complete or abide by these assurances should not respond to this request.

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 Bidding entity. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful bidder and the New York State Department of Agriculture and Markets.

#### **Appendix A – Standard Clauses for New York State Contracts**

**Non-Collusive Bidding Certification** (Signature Required - the form is included in the **Submission Documents** as **Attachment 3**)

**MacBride Certification** (Signature Required - the form is included in the **Submission Documents** as **Attachment 4**)

**Offerer Disclosure of Prior Non-Responsibility Determinations (Procurement Lobby Law Forms)** (Signature Required - the form is included in the **Submission Documents** as **Attachment 5**)

**Vendor Responsibility** (Signature Required - the form is included in the **Submission Documents as Attachment 6**)

**MWBE/EEO Documents** (Signature Required - the forms are included in the **Submission Documents as Attachment 7**) - The original plus two (2) copies of the completed M/WBE Documents must be mailed in a separate envelope labeled **RFP#0131 MWBE/EEO DOCUMENTS – DO NOT OPEN**.

**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 8**)

## **6.2 MANDATORY REQUIREMENTS CERTIFICATION FORM**

This document is in the **Submission Documents as Attachment 2**. It must be completed and returned with the Bid Response.

## **6.3 CONTRACT DOCUMENTS AND REQUIREMENTS**

The successful bidder will be required to execute a written contract with the Department. A sample New York State Department of Agriculture and Market's contract is included in the **Submission Documents**. By submitting a bid, bidder agrees to be bound by all terms and conditions in the Department's contract including: Appendix A "Standard Clauses for New York State Contracts" (January 2014); 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."