

INVITATION FOR BIDS

for

RENTAL OF MOBILE RESTROOMS AND PUMPING SERVICES DURING THE NEW YORK STATE FAIR

IFB #0206

IFB Issued: August 12, 2019
Proposals Due: September 19, 2019

By:

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

DEPARTMENT OF AGRICULTURE AND MARKETS
IFB #0206: RENTAL OF MOBILE RESTROOMS AND PUMPING SERVICES
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1. INTRODUCTION

1.1. OVERVIEW

This Invitation for Bids (IFB) is issued by the New York State Department of Agriculture and Markets (“AGM” or “the Department”) to invite qualified bidders (“Respondents”) to submit proposals to provide rental of mobile restrooms, showers, hand washing stations, holding tanks and associated pumping services during the annual Great New York State Fair (“State Fair”) at the New York State Fairgrounds (“Fairgrounds”). The recipient of the contract award from this IFB (“Contractor”) shall be the sole provider of these services during the annual State Fair, commencing with the 2020 State Fair.

The Fairgrounds are located at 581 State Fair Boulevard, Syracuse (Town of Geddes, Onondaga County) New York. The property is a 375-acre site owned and operated by AGM which is home to the State Fair.

The mission of the annual State Fair is to hold an exposition (currently 13 days) ending on Labor Day each year identifying, promoting and showcasing the agricultural practices, history and traditions of the State. In addition to agricultural competitions, the State Fair also hosts a 15-acre Midway and free music venues that host multiple national and regional acts each day with the largest being able to hold over 30,000 people. Additionally, there are approximately 600 vendors, including 200 food vendors. The State Fair attracted over 1.279 million people in 2018. The 2020 State Fair will be held August 26, 2020 through September 7, 2020.

1.2 IFB GOAL

The objective of this IFB is to retain a contractor to provide rental of mobile restrooms, showers, and hand-washing stations at locations throughout the Fairgrounds during the annual State Fair. The selected contractor will also be responsible for providing pumping services during the annual State Fair as set forth in more detail below.

1.3 TERM

The contract resulting from this IFB will commence on June 1, 2020 and end on November 30, 2024.

1.4 OPTIONAL SITE VISIT(S) AND NON-MANDATORY PRE-BID CONFERENCE(S)

Two non-mandatory tours of the State Fairgrounds will be made available to prospective bidders on **August 25, 2019** at 11:00 a.m. and **August 28, 2019** at 11:00 a.m. Prospective bidders are encouraged to attend at least one tour and may attend more than one tour. To schedule a tour, please email procurement.info@agriculture.ny.gov no later than 3:00 p.m. the day prior to the tour. Tour participants will be responsible for their own admission and parking for the site visit, which occurs during the annual New York State Fair. No substantive questions may be asked during the tour. All questions must be submitted in writing as set forth in **Section 3.1** of this IFB.

A non-mandatory pre-bid conference will be held **August 25, 2019** at 11:00 a.m. and **August 28, 2019** at 11:00 a.m. before the non-mandatory site visit tour to review Bid Form instructions, determination of Bid Award, and other required documents. The conference will be held immediately prior to the August 25 and 28 site visits; however, prospective bidders not attending the in-person tour will have the option to participate by phone. To participate in the pre-bid conference, please email procurement.info@agriculture.ny.gov no later than 3:00 p.m. the day prior to the conference and indicate whether you will be participating in person or require a call-in number.

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1.5 IFB TIMELINE

Publication in Contract Reporter:	August 12, 2019
Non-mandatory site visits	August 25, 2019 at 11:00 a.m. August 28, 2019 at 11:00 a.m.
Non-mandatory pre-bid conference	August 25, 2019 at 11:00 a.m. August 28, 2019 at 11:00 a.m. (before site visits)
Deadline for Submission of Written Questions:	September 6, 2019 by 3:00 p.m. (EST)
Last Update of answers or issuance of IFB Addendum http://www.agriculture.ny.gov/RFPS.html no later than:	September 12, 2019
Submission Deadline:	September 19, 2019 by 3:00 p.m. (EST)
Bid Opening:	September 20, 2019

The Department intends to make an award within thirty (30) days of the Bid Response due date. The contract will require approval from the Office of the Attorney General of the State of New York (AG) and the Office of the State Comptroller of the State of New York (OSC) before it becomes effective.

2. DESCRIPTION OF WORK TO BE PERFORMED

2.1 PREMISES

The New York State Fairgrounds is a 375-acre site that is home to the annual New York State Fair, which is a 13-day event that includes 600 vendors, a carnival and midway with over 60 rides, 23 national touring acts that are presented for free on Chevy Court and a strong presence from the agriculture and farming community. The State Fair drew 1.279 million people in 2018.

The Fairgrounds has undergone a \$120 million renovation and expansion that included an expanded 15-acre Midway that features new rides and attractions, a 313-site RV park, a new 136,000 square foot Exposition Center, 15 acres of flexible park space, various parking and pedestrian safety improvements, and a 6-acre festival grounds adjacent to the RV Park.

2.2 SCOPE OF WORK

The selected contractor will have the exclusive right to provide, install, and maintain mobile restrooms, showers, handwashing stations and holding tanks at the Fairgrounds during the annual State Fair for the contract period. Maps showing the placement of the mobile restrooms, handwashing stations and showers during the 2018 State Fair are attached as **Exhibit 1**. Please note, **Exhibit 1** is provided for informational purposes only; locations and quantities are subject to change at the Department’s discretion.

The selected contractor will also be responsible for providing pumping services for the Department during the annual State Fair for the contract period as further described below.

2.2.1 DEPARTMENT NEEDS DURING ANNUAL STATE FAIR (GROUP 1)

The selected contractor shall provide mobile restrooms, showers, hand-washing stations and

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holding tanks during the annual State Fair that meet the specifications set forth herein. Equal or equivalent equipment meeting or exceeding all of the specifications listed under each item may be substituted. The selected contractor shall be available to provide 24-hour service of all mobile restroom facilities (including weekends) during the annual State Fair throughout the term of the contract.

Please note that, where available, restrooms and shower facilities will be connected to the sanitary sewer system (connected locations from 2018 are indicated in **Exhibit 1**).

The selected contractor shall also provide pumping services as more specifically set forth below. "Pumping services" is defined as pumping, or for items directly connected to sewers onsite, release of dump valve.

All paper and hand sanitizing products must be delivered to a centralized location at the Fairgrounds designated by AGM. Repairs to any of the units are the responsibility of the selected contractor. Any needed repairs must be provided by the selected contractor as soon as possible or no later than twelve (12) hours after notification.

On or before July 1st of each year, AGM will provide the selected contractor with the final order (quantity) and locations for placement onsite. The selected contractor shall also provide up to three (3) staff training events on a schedule to be set by AGM for State Fair staff responsible for cleaning the mobile restrooms. Group 1A-1C quantities listed below are based on 2019 data; Group 1D pumping hours for 2019 will not be available until after the 2019 State Fair, so 2018 data is used. All quantities are estimates and subject to change at the Department's discretion. NOTE: Items# 1-10 (restroom trailers, shower trailers, and port-a-johns) cannot be older than sixty (60) months calculated as of June 1st each year of the Agreement.

A. Group 1A – Mobile Restrooms

1. Item #1: Fourteen (14)-stall mobile restroom trailer

- Air conditioning
- Rigid (vinyl, metal etc.) skirting
- Must have: ladies' and men's sides with equitable number of stations; sinks, paper towel dispensers; and trash cans.
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning the restrooms each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is two (2) trailers with potential overage of one (1) trailer (overage bid).

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2. Item #2: Ten (10)-stall mobile restroom trailer

- Air conditioning
- Rigid (vinyl, metal etc.) skirting
- Must have: ladies' and men's sides with equitable number of stations; sinks, paper towel dispensers; and trash cans.
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning the restrooms each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is eight (8) trailers with potential overage of one (1) trailer (overage bid).

3. Item #3: Eight (8)-stall mobile restroom trailer

- Air Conditioning
- Rigid (vinyl, metal etc.) skirting
- Must have: ladies' and men's sides with equitable number of stations; sinks, paper towel dispensers; and trash cans.
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning the restrooms each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is four (4) trailers with potential overage of one (1) trailer (overage bid).

4. Item #4: Two (2)-stall all gender restroom trailer

- Air conditioning
- Rigid (vinyl, metal etc.) skirting
- Each stall must have: minimum of 1 toilet, 1 urinal, 1 sink, 1 paper towel

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dispenser, and 1 trash can.

- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning the restrooms each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) trailer with potential overage of one (1) trailer (overage bid).

5. Item #5: Three (3)-stall (one ADA compliant plus two all gender) restroom trailer

- Air conditioning
- Rigid (vinyl, metal etc.) skirting
- Each stall must have: minimum of 1 toilet, 1 urinal, 1 sink, 1 paper towel dispenser, and 1 trash can.
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning the restrooms each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) trailer with potential overage of one (1) trailer (overage bid).

6. Item #6: Single stall all gender ADA compliant restroom trailer

- Air conditioning
- Rigid (vinyl, metal etc.) skirting
- Must have: minimum of 1 toilet, 1 urinal, 1 sink, 1 paper towel dispenser, and 1 trash can.
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing

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products; and removal.

- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning the restrooms each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) trailer with potential overage of one (1) trailer (overage bid).

7. Item #7: ADA compliant single stall restroom/shower combo with ramp(s)

- Air conditioning
- Rigid (vinyl, metal etc.) skirting
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for stocking and cleaning this unit each day of the State Fair.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) unit with potential overage of one (1) unit (overage bid).

8. Item #8: Single stall portable chemical toilet (port-a-john)

- Hand sanitizing unit inside or attached
- Rental price shall include: delivery; installation; pumping, cleaning, stocking and sanitizing each unit at a minimum every 90 minutes from 8 a.m. to midnight for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- All portable toilets shall be pumped and cleaned/sanitized by the selected contractor at a minimum every 90 minutes each day during the annual State Fair from 8:00 a.m. to midnight throughout the Term of the Agreement. In the case of an emergency, immediate response may be required at the determination of AGM at any location on the Fairgrounds, including concessionaire/exhibitor locations and the RV Park.
- Each portable toilet unit must be stocked with paper products and hand sanitizer at all times by the selected contractor.
- The contractor shall place portable toilets in various locations on the Fairgrounds as directed by the Fair's Maintenance Department staff.

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- Each portable toilet unit shall remain locked prior to the first day of the State Fair unless authorized by AGM, except: approximately twenty (20) portable toilets will be opened two (2) days prior to the first day of the State Fair and will need to be cleaned/sanitized/stocked no less than twice per day.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is seventy-eight (78) units with potential overage of eight (8) units (overage bid).

9. *Item #9: Single stall ADA compliant portable chemical toilet (port-a-john)*

- Hand sanitizing unit inside or attached
- Rental price shall include: delivery; installation; pumping, cleaning, stocking and sanitizing each unit at a minimum every 90 minutes from 8 a.m. to midnight for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- All portable toilets shall be pumped and cleaned/sanitized by the selected contractor at a minimum every 90 minutes each day during the annual State Fair from 8:00 a.m. to midnight throughout the Term of the Agreement. In the case of an emergency, immediate response may be required at the determination of AGM at any location on the Fairgrounds, including concessionaire/exhibitor locations and the RV Park.
- Each portable toilet unit must be stocked with paper products and hand sanitizer at all times by the selected contractor.
- The contractor shall place portable toilets in various locations on the Fairgrounds as directed by the Fair's Maintenance Department staff.
- Each portable toilet unit shall remain locked prior to the first day of the State Fair unless authorized by AGM, except: approximately five (5) portable toilets will be opened two (2) days prior to the first day of the State Fair and will need to be cleaned/sanitized/stocked no less than twice per day.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is twenty-seven (27) units with potential overage of three (3) units (overage bid).

B. Group 1B – Showers

1. *Item #10: Sixteen (16)-stall shower trailer*

- Rigid (vinyl, metal etc.) skirting
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; paper and hand sanitizing products; and removal.
- The selected contractor shall be responsible for providing and delivering all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- State Fair staff shall be responsible for cleaning the shower trailer each day

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of the State Fair.

- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is two (2) trailers with potential overage of one (1) trailer (overage bid).

C. Group 1C - Miscellaneous

1. Item #11: Portable water hand washing station

- Minimum 4-person water hand washing station
- Hands-free foot pump operation
- Trash receptacles
- Rental price shall include: delivery; installation; pumping no less than once every 24 hours for the duration of each State Fair held during the Term of the Agreement; cleaning and sanitizing each unit at a minimum every 120 minutes each day during the annual State Fair from 8 a.m. to midnight; providing and stocking paper and hand sanitizing products; and removal.
- Each portable hand washing station shall be pumped and cleaned/sanitized by the selected contractor at a minimum every 120 minutes each day during the annual State Fair from 8:00 a.m. to midnight throughout the Term of the Agreement.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is seventeen (17) stations with potential overage of two (2) stations (overage bid).

2. Item #12: 300-gallon holding tank

- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is two (2) tanks with potential overage of one (1) tank (overage bid).

3. Item #13: 950-gallon self-contained vacuum tank

- Must be self-contained with motor and hose
- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) tank with potential overage of one (1) tank (overage bid).

4. Item #14: 1500-gallon self-contained vacuum tank

- Must be self-contained with motor and hose

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- Rental price shall include: delivery; installation; pumping, or, if the unit is directly connected to the sewer, release of the dump valve, as needed but not less than once every twenty-four (24) hours for the duration of each State Fair held during the Term of the Agreement; and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping/release
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) tank with potential overage of one (1) tank (overage bid).

D. Group 1D – Additional Pumping Needs During Annual State Fair

Requirements in Group 1D are independent of Groups 1A-1C and should be priced separately, per vehicle per hour, on the bid sheet.

1. Item #15: Daily Scheduled Pumping

- The selected contractor will be responsible for daily scheduled pumping of a limited number of Fair-obligated mobile offices and RVs on the Fairgrounds. These are either Fair mobile offices which contain restrooms, or grounds entertainment trailers or RVs for which pumping is contractually provided by the Fair.
- Locations and timing will be provided by the Department; however, most units will require pumping multiple times throughout the 13-day State Fair.
- These services shall be bid on a per vehicle, per hour basis. For reference, during the 2018 State Fair, approximately 110 hours of daily scheduled pumping was provided.
- See **Exhibit 2** for 2018 daily scheduled pumping locations. **Exhibit 2** is for informational purposes only; locations may change at the discretion of the Department.
- The selected contractor shall submit to AGM a report detailing the number of hours spent on daily scheduled pumping along with a separate invoice for this item and copy of payroll reports.

2. Item #16: Emergency Pumping

- The selected contractor shall be able to respond to a call from AGM for emergency pumping services in the event of a sewer issue within ninety (90) minutes.
- Immediate response may be required at the determination of AGM at any location on the Fairgrounds, including concessionaire/exhibitor locations and the RV Park.
- The selected contractor shall also have available a 3,000-gallon pumping vehicle to provide emergency pumping services.
- These services shall be bid on a per vehicle, per hour basis. For reference, during the 2018 State Fair, approximately 8 hours of emergency pumping was provided.
- The selected contractor shall submit to AGM a report detailing the number of hours spent on emergency pumping along with a separate invoice for this item and copy of payroll reports.

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2.2.2 CONCESSIONAIRE/EXHIBITOR/RV PATRON NEEDS DURING ANNUAL STATE FAIR (GROUP 2)

The selected contractor shall also be the exclusive vendor for providing all mobile restroom facilities, holding tank, and pumping services for concessionaires, exhibitors and RV lots during the annual State Fair during the term of this Agreement. The selected contractor shall pay AGM fifteen (15) percent of the total gross sales for these rented items and services. The selected contractor shall determine service frequency and schedule with concessionaires/exhibitors and individual RV patrons. The selected contractor is prohibited from charging concessionaires, exhibitors and RV patrons any additional fees or costs of any kind for the services to be provided herein except for a late order fee as described below.

Group 2 Quantities listed below are estimates based on 2018 data and are subject to change at the Department's discretion. Ordering for 2019 is still in progress as of the release of this IFB.

Concessionaires and exhibitors:

- Bid price shall include delivery, installation, cleaning, paper and hand sanitizing products, pumping as needed, and removal.
- Price shall be bid on a per item basis.
- For reference, in 2018, the following items were contracted by concessionaires/exhibitors for the State Fair:
 - 24 holding tanks (each pumped every night during the 13-day State Fair)
 - 3 portable chemical toilets (each pumped two times total during the 13-day State Fair)

Individual RV Patrons:

- Bid price shall include pumping with frequency determined by contractor and individual RV patrons.
- Price shall be bid on a per pump basis.
- **Exhibit 3** is a map of 2018 RV sites and a chart indicating the approximate number of sites pumped and frequency. RV pumping locations are for informational purposes only; locations and number of sites are subject to change at the Department's discretion.

NOTE: In 2018, RV pumping was included in the existing contract scope of services for AGM; for the contract to be awarded from this solicitation, RV pumping will be contracted separately with individual RV patrons and the selected contractor.

Bidder shall provide rental prices for each item to be offered to concessionaires and exhibitors on the Bid Form. AGM will distribute the price list to concessionaires and exhibitors. State Fair concessionaires and exhibitors shall submit all order forms for mobile restrooms and holding tanks to AGM. AGM will forward the order forms to the selected contractor for fulfillment. The selected contractor shall coordinate installation with the concessionaires/exhibitors and AGM's Concessions and Exhibits Office and will provide 24-hour contact numbers for concessionaires/exhibitors to call with questions or emergencies. Any changes to the order must be submitted to AGM immediately. The selected contractor will be responsible for collecting and processing all payments directly with the individual concessionaires/exhibitors. Orders from concessionaires and exhibitors for items in Group 2A below must be received by AGM by August 1 or shall be subject to a ten (10) percent additional charge by the contractor.

Bidder shall provide per pump prices to be offered to RV patrons on the Bid Form. AGM will distribute the per pump price and order form to RV patrons upon receipt of reservations. State

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Fair RV patrons who wish to purchase pumping services shall submit the order forms to AGM. AGM will forward the order forms to the selected contractor for fulfillment. The selected contractor shall coordinate timing and frequency for pumping with the RV patrons and will provide 24-hour contact numbers for them to call with questions or emergencies. The selected contractor will be responsible for collecting and processing all payments directly with the individual RV patrons. Orders from RV patrons for services in Group 2B below must be received by AGM by August 1 or shall be subject to a ten (10) percent additional charge by the contractor.

Within thirty (30) days after the conclusion of each State Fair held during the Term of the Agreement, the selected contractor shall provide the Department a sales report that includes a description of: a) the number of items and/or services supplied, prices charged and gross sales to NYS Fair concessionaires/exhibitors; and b) the number of RVs contracted, the price per pump, number of times pumped each, and gross sales. Based on this information, the Department will provide the selected contractor with an invoice for the percentage payment referenced herein.

The selected contractor will be responsible for collecting and processing all payments directly with the individual concessionaires/exhibitors and RV Patrons.

In the case of an emergency, immediate response may be required of the selected contractor at the determination of AGM at any location on the Fairgrounds, including concessionaire/exhibitor locations and the RV Park.

A. Group 2A – Concessionaire/Exhibitor Needs

1. Item #17: Single stall portable chemical toilet (port-a-john)

- The contractor shall place portable toilets in various locations on the Fairgrounds as directed by the Concessionaires'/Exhibitors' needs.
- Rental price shall include: delivery, installation, cleaning and stocking as needed, filling and pumping as needed, supply and delivery of paper and hand sanitizing products, and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is five (5) units with potential overage of one (1) unit (overage bid).
- NOTE: in 2018, three (3) units were ordered; due to anticipated increase in demand for this item, the estimated quantity has been increased for 2020.

2. Item #18: Single stall ADA compliant chemical toilet (port-a-john)

- The contractor shall place portable toilets in various locations on the Fairgrounds as directed by the Concessionaires'/Exhibitors' needs.
- Rental price shall include: delivery, installation, cleaning and stocking as needed, filling and pumping as needed, supply and delivery of paper and hand sanitizing products, and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is one (1) unit with potential overage of one (1) unit (overage bid).

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3. Item #19: Portable water hand washing station

- Minimum 4-person water hand washing station
- Hands-free foot pump operation
- Trash receptacles
- Rental price shall include: delivery, installation, cleaning and stocking as needed, filling and pumping as needed, supply and delivery of paper and hand sanitizing products, and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is five (5) stations with potential overage of one (1) station (overage bid).

4. Item #20: 300-gallon holding tank

- Rental price shall include: delivery, installation, pumping as needed, and removal.
- The contractor shall monitor each unit throughout the duration of the State Fair to determine fill levels and need for pumping.
- This item shall be bid on a per unit basis. As listed in **Attachment 1 - Bid Form/Cost Proposal**, the anticipated quantity required (base bid) for this item is twenty-four (24) tanks with potential overage of two (2) tanks (overage bid).

B. Group 2B – RV Patron Needs

1. Item #21: Individual RV Patron pumping services

- Pumping services for individual RVs and holding tanks in several lots on the Fairgrounds during the duration of the State Fair (see **Exhibit 3** for anticipated locations, number of sites and approximate timing). For reference, 1204 pumps were provided to RV Patrons in 2018.
- **Exhibit 3** is provided for informational purposes only; locations and quantities are subject to change.
- These services shall be bid on a per pump basis. For reference, during the 2018 State Fair, approximately 1,200 pumps were provided to RV patrons.
- As mentioned above, the selected contractor shall arrange pumping frequency, schedule, and billing with individual RV patrons.

2.2.3 EQUIPMENT AND HOURS

Equipment must be available as follows:

Size of Pumping Vehicle (gallons)	Number of Vehicles Needed	Number of Days Needed Each Year During the Term of the Agreement
950 gallon	1	16 (duration of the annual State Fair and 2 days prior and 1 day after)
950 gallon	1	13 (duration of the annual State Fair)

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1,500 gallon	1	13 (duration of the annual State Fair)
3,000 gallon	1	On-call for the 13 days of the annual State Fair

All equipment shall be clean and in good working order, properly registered pursuant to New York State law, and insured pursuant to the insurance requirements set forth in **Exhibit 4 - Insurance Requirements**. All operators shall be properly licensed pursuant to local, state and federal laws and regulations.

A. CONTRACTOR SHALL:

- Provide and deliver all paper and hand sanitizing products to a centralized location at the Fairgrounds designated by AGM in sufficient quantities needed for the duration of each State Fair held during the Term of the Agreement.
- Provide and deliver a weather proof storage trailer to be placed onsite to store supplies in a centralized location as determined by AGM. The selected contractor is responsible for issuing the supplies to the State Fair’s grounds cleaning contractor.
- Deliver all of the rental units to the New York State Fairgrounds no later than two (2) days prior to the first day of each State Fair held during the Term of the Agreement unless directed otherwise by AGM.
- Setup/hookup onsite services for the mobile restroom units no later than one (1) day prior to the first day of each State Fair held during the Term of the Agreement.
- Pick up and remove all of the rental units from the New York State Fairgrounds no later than five (5) days after the last day of each State Fair held during the Term of the Agreement. Failure to remove units within the time period specified above will result in a \$50 per unit, per day fee.
- Provide a 24-hour emergency contact number. Contractor shall be onsite no later than ninety (90) minutes after notification of an emergency. Immediate response may be required at the determination of AGM at any location on the Fairgrounds, including concessionaire/exhibitor locations and the RV Park.
- Provide a list of all equipment onsite to be used under the Agreement, updated by the contractor if substitutions or replacements are made.
- Provide the contractor’s daily staffing schedule along with the names and cellular phone numbers for the staff on the Fairgrounds.
- Provide operational reports as requested to Fair management including daily log detailing hours spent on daily scheduled and emergency pumping.
- Provide up to three (3) staff training events on a schedule to be set by AGM for State Fair staff responsible for cleaning the restrooms.

B. DEPARTMENT SHALL PROVIDE:

- All necessary power and water.
- Credentials for the employee(s) performing these duties.
- Contact information for the AGM designee.
- A location inside the Fairgrounds for employees to park the pumping vehicles when not in use.
- A location for the placement of a weatherproof storage trailer to store supplies.
- Staff and cleaning of all mobile restroom trailers as noted in **Section 2.2.1**. As specified in the item descriptions, this **does not** include Group 1A, Items #8 and #9.

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3. PROPOSAL FORMAT, CONTENTS AND SUBMISSION

3.1 SUBMISSION TIMELINE

All bid submission documents required to be responsive for bid evaluation must be received by the Department no later than 3:00 PM (EST) on September 19, 2019 in order to be considered. The Department reserves the right to request any missing information from those items marked with an asterisk (*) on the Submission Documents Checklist. Bidder will have three (3) business days to provide any missing information requested by the Department for those items marked with an asterisk (*) on the Submission Documents Checklist. 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 IFB must be received by 3:00 PM (EST) on September 6, 2019. Questions must be submitted in writing via email to Joyce Willi or Carrie Lindemann at procurement.info@agriculture.ny.gov. Please list "RENTAL OF MOBILE RESTROOMS AND PUMPING SERVICES DURING THE ANNUAL NEW YORK STATE FAIR IFB#0206" in the subject line.

A Question and Answer document will be posted to the Department website: www.agriculture.ny.gov under "Funding Opportunities" no later than September 12, 2019. No individual written responses will be provided.

Any revisions to this invitation will be posted on the Department's website, www.agriculture.ny.gov under "Funding Opportunities". All bidders are responsible for keeping informed of any revisions to this invitation. All questions and answers shall be incorporated into the IFB which will be part of the awarded contract. If you are unable to access the Department's website, please contact Joyce Willi or Carrie Lindemann at procurement.info@agriculture.ny.gov to arrange for alternate delivery, or at the following mailing address: New York State Department of Agriculture and Markets, Fiscal Department, Attn: Joyce Willi or Carrie Lindemann, 10B Airline Drive, Albany, New York, 12235.

3.2 SUBMISSION METHOD

Facsimiles or e-mailed copies are not acceptable. Materials received after the deadline shall be returned unopened to the sender. See **Section 6.1**, Submission Documents, for information on completing a bid response.

Mail or hand-deliver a bid response in **one package containing the following two (2) separately labeled and sealed envelopes:**

Envelope 1, titled "IFB #0206 Minimum Qualifications and Forms and Assurances."

Original plus one (1) paper copy of (See **Section 6.1**, Submission Documents):

- Cover Sheet and Submission Documents Checklist
- Attachment 3 - Mandatory Contract Requirements Certification Form (Original Signatures)
- Attachment 4 - Non-Collusive Bidding Certification (Original Signatures)
- Attachment 5 - MacBride Nondiscrimination Certification Form (Original Signatures)
- Attachment 6 - Procurement Lobbying Law Forms (Original Signatures)

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- Attachment 7 - Vendor Responsibility (Original Signatures)
- Attachment 8 – Vendor Assurance No Conflict of Interest (Original Signatures)
- Attachment 9 – Executive Order No. 177 (Original Signatures)
- Attachment 10 - Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)
- Attachment 11 – Experience and References Form demonstrating proof of having met the Minimum Qualifications set forth in **Section 3.3** of this IFB.

Envelope 2, titled “IFB#0206 Bid Form/Cost Proposal – Do Not Open.”

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

Place the two (2) envelopes described above into one package and mail or hand-deliver to:

New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: Joyce Willi or Carrie Lindemann (IFB#0206)

3.3 MINIMUM QUALIFICATIONS

Bidders are advised that AGM’s intent is to ensure that only qualified, responsive and responsible Contractors enter into a contract to provide rental of mobile restrooms and pumping services during the State Fair. AGM considers the following qualifications a pre-requisite in order to be considered a qualified Bidder for the purposes of this solicitation.

- A. **Experience and References.** The Bidder must have experience providing rental of mobile restrooms and pumping services similar in scope to this solicitation for at least four (4) events or venues within the last thirty-six (36) months preceding submission of this bid. At least three of the four events or venues referenced must include the rental of at least four (4) restroom trailers and sixty-five (65) port-a-johns along with associated pumping services for a period of at least three (3) consecutive days. The Bidder must provide the name of the event or venue, and a description of the services provided including dates. In addition, the bidder must provide the name, address, phone number and email for a contact person for each of the events/venues listed. Note that the Department will contact the references to verify the information provided; the Bidder is solely responsible for the availability of the submitted references. Please provide the above information using **Attachment 11 – Experience and References Form** of the Submission Documents.
- B. **Equipment and Rental Units.** The Bidder must certify that it owns or will have access to, by the contract start date, the equipment listed in **Section 2.2.3** and the rental units listed in **Section 2.2.1** Department Needs (Items #1-10 only). Bidders should submit a list of equipment and rental units, detailed specifications (i.e., size, number of toilets, sinks, etc.), and the year it was manufactured. Restroom trailers, shower trailers, and port-a-johns cannot be older than sixty (60) months calculated as of June 1st each year of the Agreement.

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- C. **Proximity during Fair.** The Bidder must demonstrate its ability to respond to a call from AGM for emergency pumping services in the event of a sewer issue within ninety (90) minutes. Immediate response may be required at the determination of AGM at any location on the Fairgrounds, including concessionaire/exhibitor locations and the RV Park. Please use **Attachment 11 – Experience and References Form** to document location of office and staff and describe how the Bidder would ensure this would be accomplished.

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 rental of mobile restrooms and pumping services at the New York State Fairgrounds during the contract period.
- 2) The selected contractor will have full control of the personnel, rental items, equipment and services provided and assumes total responsibility for financial loss, accident, injury, or death that may occur as a result of the services and rental items/equipment provided. The selected contractor will indemnify and hold harmless the State of New York, the Department, its officers and employees, from all claims, demands, damages, expenses, liability or obligation for damages, loss or injury to, or of, any person or property arising out of the acts of the selected contractor, its agents, 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 owns or will have access to, by the contract start date, the equipment listed in **Section 2.2.3** and the rental units listed in **Section 2.2.1** Department Needs (Items #1-10 only). Bidders should submit a list of equipment and rental units, detailed specifications (i.e., size, number of toilets, sinks, etc.), and the year it was manufactured. Restroom trailers, shower trailers, and port-a-johns cannot be older than sixty (60) months calculated as of June 1st each year of the Agreement.
- 4) The selected contractor will obtain and maintain the insurance policies that meet the requirements set forth in **Exhibit 4** of this IFB.
- 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 sample New York State AGM contract attached to this IFB as **Exhibit 5**.

3.5 BID FORM/COST PROPOSAL

All bids must be submitted on "**Attachment 1 - Bid Form**" included in the Submission Documents. The Bid Form must not be altered in any way. Please refer to **Section 3.2**, Submission Method, for information on how to package your proposal. Please follow the instructions in **Attachment 1** when completing your bid. Per #2 on the Bid Form Instructions tab, on the "Mobile Restrooms & Pumping EXP" and "Mobile Restrooms & Pumping REV" tabs, enter bid prices in the highlighted (green) fields ONLY. All other fields are locked and calculations are formula formatted to automatically calculate results of each vendor's bid.

Group 1A-1C Departmental Rental Units and included items and services as described above and on bid sheet (weighted at 80%) - Submit the cost for each item.

Group 1D Departmental Pumping Services includes scheduled daily pumping and emergency pumping as described above and on bid sheet (weighted at 10%) - Submit the per vehicle per hour cost for each.

Group 2A Concessionaire/Exhibitor Rental Units and included items and services as described above and on bid sheet (weighted at 5%) - Submit the cost for each item to be charged to NYS Fair.

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concessionaires and exhibitors. Per **Section 2.2.2** of this IFB, by submitting a bid, bidder agrees to pay the Department fifteen percent (15%) of gross rental sales of all services provided to NYS Fair concessionaires and exhibitors during each State Fair held during the term of this Agreement.

Group 2B Individual RV Pumping (weighted at 5%) - Submit the cost per pump to be charged to RV patrons. Per **Section 2.2.2** of this IFB, by submitting a bid, bidder agrees to pay the Department fifteen percent (15%) of gross sales of all pumping services provided to RV Patrons during each State Fair held during the term of this Agreement.

All unit prices shall be inclusive of all costs and profit (including but not limited to: Direct & Indirect Costs, Payroll, Fringe Benefits, Supplies and Materials, Equipment, Overhead and Profit). Unit prices shall be multiplied by the estimated quantities for evaluation purposes only. The selected contractor will only be paid for actual items/services provided. Unit prices submitted on the Bid Form shall remain firm for the duration of the contract subject to any price adjustment pursuant to **Section 5.3** of this IFB.

4. EVALUATION

4.1 CONSIDERATION

For a bidder to be eligible for consideration, it must meet the Minimum Qualifications. For the bid response to be evaluated, the bidder must certify that it will meet the Mandatory Contract Requirements.

4.2 DETERMINATION OF BID AWARD

The award will be made to the lowest responsive and responsible bidder with the lowest Total Net Weighted Bid Price pursuant to the Bid Form. As noted in the “**Attachment 1 - Bid Form**” instruction tab, bidders should enter bid prices in the highlighted (green) fields ONLY; all other fields are locked and calculations are formula formatted to automatically calculate results of each vendor's bid.

In the event of a tie for the lowest Total Weighted Bid Price, the bidder who is part of the tie with the lowest cost for “Group 1A-1C Departmental Rental Units” will be considered the winning bidder. In the event that multiple bidders have identical Total Weighted Bid Prices and identical “Group 1A-1C Departmental Rental Units” costs, the bidder who is part of the tie with the lowest cost for “Group 1D Departmental Pumping Services” will be considered the winning bidder. If multiple bidders have identical Total Weighted Bid Prices and identical Group 1A-1C and Group 1D costs, the winner will be determined by a coin toss.

5. CONSIDERATIONS RELATED TO THIS PROCUREMENT

5.1 DEPARTMENT’S RESERVATION OF RIGHTS

The Department reserves the right to:

- Reject any or all proposals received in response to the IFB;
- Withdraw the IFB at any time, at the agency’s sole discretion;
- Make an award under the IFB in whole or in part;
- Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
- Seek clarifications and revisions of proposals;
- 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 agency’s request for clarifying information in the course of evaluation and/or selection under the IFB;

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- Prior to the *bid opening*, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the bidders;
- Waive any requirements that are not material;
- Negotiate with the successful bidder within the scope of the IFB in the best interests of the State;
- Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable until the contract start date (June 1, 2020);
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; and
- Make all interpretations of the meaning and intent of the IFB and resulting contract and the Department's interpretation is final.

5.2 SUBCONTRACTING

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

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

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

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

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

The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the Contractor's duties under the Agreement. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the Agreement.

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

5.3 PRICE ADJUSTMENT

The unit prices 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 May 31st 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 May 31st 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.

5.4 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 zero (0) percent for MWBE participation, zero (0) percent for New York State-certified Minority-owned Business Enterprise ("MBE") participation and zero (0) percent for New York State-certified Women-owned Business Enterprise ("WBE") participation (based on the current availability of MBEs and WBEs). A contractor ("Contractor") on any contract resulting from this procurement ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this Invitation for Bids (IFB), the respondent agrees that the Department may withhold payment pursuant to any Contract awarded as a

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result of this IFB pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the Department will evaluate a Contractor's "good faith efforts," refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this IFB, 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 518-457-4619 or mwbe@agriculture.ny.gov. All MWBE Forms and Instructions are included in the Submission Documents.

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

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department for review and approval. The Department will review the submitted MWBE Utilization Plan and advise the respondent of the Department acceptance or issue a notice of deficiency within 30 days of receipt.
- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department, 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 waiver; or

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D. If the Department determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Department, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly M/WBE Contractor Compliance & Payment Report to the Department, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of **Appendix A** – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, (See Submission Documents, Form MWBE EE01), to the Department with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Department on a quarterly basis during the term of the Contract.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

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5.5 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. AGM recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of AGM contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, AGM conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/Bidder/Contractor> is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

5.6 NOTIFICATION OF AWARD

The Department will notify the selected bidder in writing. Unsuccessful bidders will be notified in writing by the Department within ten business days after the award.

5.7 DEBRIEFING PROCEDURES

Pursuant to section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within fifteen (15) calendar days of notification by the AGM that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the Solicitation.

5.8 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 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 Joyce Willi at:

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

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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, 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/>.

5.9 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.

5.10 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.

5.11 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

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

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System Instructions available at 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.

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

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

Subcontractors:

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

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

5.12 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.

5.13 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.

5.14 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 offeror/bidder during the procurement process. (*See Submission Documents Attachment 6 -- "Guidelines Regarding Permissible Contacts During a Procurement and the Prohibition of Inappropriate Lobbying Influence"*). An offeror/bidder is restricted from making contacts from the earliest written notice, advertisement or solicitation of the IFB 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 offeror/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 offeror/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

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

The Department has designated the following staff member(s) to receive contacts pertaining to this Bid:

Joyce Willi or Carrie Lindemann
New York State Department of Agriculture & Markets
Division of Fiscal Management
10B Airline Drive
Albany, New York 12235
E-mail: procurement.info@agriculture.ny.gov

6. REQUIRED ASSURANCES

6.1 SUBMISSION DOCUMENTS

The documents listed below are included in the **Submission Documents** section, which follows. All documents requiring signature must be signed by an authorized representative of the 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. Please refer to Section 3.2, "Submission Method" for more information on how to package your proposal:

- **Bid Form/Cost Proposal** (Signature Required Hard Copy - the form is included in the **Submission Documents as Attachment 1**)
- **Subcontracting Form** (Signature Required - the form is included in the **Submission Documents as Attachment 2**)
- **Mandatory Requirements Certification Form** (Signature Required - the form is included in the **Submission Documents as Attachment 3**)
- **Non-Collusive Bidding Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 4**)
- **MacBride Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 5**)
- **Offerer Disclosure of Prior Non-Responsibility Determinations (Procurement Lobby Law Forms)** (Signature Required - the form is included in the **Submission Documents as Attachment 6**)
- **Vendor Responsibility** (Signature Required - the form is included in the **Submission Documents as Attachment 7**)
- **Vendor Assurance No Conflict of Interest** (Signature Required – the form is included in the **Submission Documents as Attachment 8**)
- **Executive Order No. 177** (Signature Required – the form is included in the **Submission Documents as Attachment 9**)
- **Substitute W-9 Form to obtain SFS ID** (Signature Required - Return if SFS Vendor ID is requested – the form is included in the **Submission Documents as Attachment 10**)
- **Experience and References Form** (the form is included in the **Submission Documents as Attachment 11**)

6.2 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 attached to this IFB as **Exhibit 5**. 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

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“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.”

7. 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.

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.

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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 with the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. 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. Forms are available through these links:

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

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.