

*Request for Proposals for
Independence Day Fireworks Display for the
City of Niagara Falls, New York*



*RFP No. 2019-13
Proposals Due: April 26, 2019 at 2:00 p.m.*

Section 1 - Introduction and Instructions

Purpose of the RFP

This Request for Proposal (RFP) is issued by the City of Niagara Falls, New York (hereinafter referred to as the "City"). The purpose of this RFP is to establish a contract with a qualified vendor(s) to provide a fireworks display on July 4, 2019 at Hyde Park in the City of Niagara Falls.

Contact Person(s), Address, Telephone and Fax Number

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Niagara Falls, New York 14304
Phone: (716) 286-4841
Fax: (716) 286-4847

Joseph Pedula
Fire Chief
3115 Walnut Avenue
Niagara Falls, NY 14301
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Purchasing Agent
745 Main Street, Room 214
Niagara Falls, New York 14301
Phone: (716) 286-4372
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RFP Schedule

This schedule represents the City's best estimate of the schedule that will be followed for this RFP. If a component of this schedule such as the deadline for receipt of proposals is delayed, the rest of the schedule will be shifted by the same number of days.

The approximate RFP schedule (subject to change as required by the City) is as follows:

RFP issued: On or about March 29, 2019
Proposals due: April 26, 2019 at 2:00 p.m.
Review of proposals: April 26, 2019 through May 9, 2019
City Council Award (if awarded): On or about May 15, 2019
Date of Fireworks Display: July 4, 2019

General Instructions

The City will officially distribute submission package documents from the Division of Purchasing. Submission package documents are also available on the Purchasing Division's website, www.niagarafallsusa.org/government/city-departments/purchasing. Copies from any other source are not considered official copies. Only those vendors who obtain documents from the sources listed are guaranteed to receive addendum information, if such information is issued. If you have obtained this document from a source other than the sources listed, it is recommended that you obtain an official copy.

The envelope or packing container containing the submission must bear the vendor name and address, be sealed and must be clearly marked in the LOWER LEFT CORNER with the submission number. Submissions which are received in a packing envelope or container should also bear the submission number in a conspicuous place. Failure to do this may necessitate the premature opening of the submission which may compromise its confidentiality.

General Instructions (continued)

Vendor(s) must submit or deliver one (1) original and one (1) copy of the proposal to:

CITY OF NIAGARA FALLS, NEW YORK
DIVISION OF PURCHASING
City Hall, Room 214
745 Main Street
PO Box 69
Niagara Falls, NY 14302-0069

Proposals must be received by the Purchasing Division at the location specified no later than **2:00 p.m. on April 26, 2019**. Proposals will not be publicly read at the opening. Proposals may not be delivered orally, by facsimile transmission, by other telecommunication or electronic means. Vendors assume the risk of the method of dispatch chosen. The City assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt by the City. A vendor's failure to submit its proposal prior to the deadline will cause the proposal to be rejected. Late proposals or amendments will not be opened or accepted for evaluation.

The total number of pages contained in this package should be *fifteen (15)* including the exhibit. If any pages are missing, please contact the Purchasing Division.

Section 2 – Proposal and Scope of Work

Purpose

The purpose of this offering is to provide a fireworks display on July 4, 2019 at Hyde Park in the City of Niagara Falls. It is the City's intention to have the display commence at approximately dusk and that the display should have a duration of thirty (30) to forty (40) minutes with a finale lasting approximately five (5) minutes.

Terms, Conditions and Specifications

1. The successful vendor shall provide all management, supervision, labor, materials, and equipment necessary for efficient and effective performance of the tasks set forth in the Introduction and Instructions section above at the designated location.
2. The vendor shall be knowledgeable and have experience in providing the services as described herein.
3. The vendor shall coordinate their work with the City, or monitors retained by the City, and shall comply with all reasonable directions given.
4. Proposals must provide a description and listing of all displays/shells to be used to create bursts for the event. There shall be a minimal delay between bursts. Ground displays are not permitted.
5. For each display/shell, please list the size (diameter and circumference). Shells shall be a minimum of three (3) inches and a maximum of twelve (12) inches in size.

Terms, Conditions and Specifications (continued)

6. Vendors shall include in the proposal a list of the names and job titles of all personnel who will be on hand to set up, execute the display, clean up and provide security. The City will not provide staff to complete these tasks.
7. Vendors shall submit copies of vendor/operator's New York State Department of Labor pyrotechnician certification to deal in and/or manufacture explosives and vendor/operator's Bureau of Alcohol, Tobacco and Firearms explosive license or permit.
8. Proposals shall include a list of three (3) references for which vendor has provided fireworks displays in the last (3) years. The displays referenced must be a comparable size (or larger) to the planned fireworks display being proposed.
9. The vendor should exercise due care to minimize contamination to the soil and damage to the general property. The vendor shall repair any damages caused by the vendor's equipment in a timely manner at no expense to the City. Vendor shall immediately notify the City of any damages.
10. The vendor shall have a competent superintendent or project manager assigned to the City contract work. This individual shall be available in person to the City at any time when work under this contract is ongoing. This individual shall be the vendor's principal point of contact for operational issues, shall attend all operational meetings, and shall be prepared to brief operational status at meetings and in public forums.
11. The City reserves the right to inspect the site, verify quantities, and review operations at any time.
12. All work shall be accomplished in a safe manner in accordance with City, state, federal and Occupational Safety & Health Administration (OSHA) standards, and shall also be in accordance with any other applicable laws or regulations.
13. The vendor will meet with the City prior to the commencement of operations to discuss matters of judgment, safety, quality control, quality assurance, coordination, payment, record keeping, and project scheduling and reporting. All elements of the project shall be reviewed in detail.
14. The vendor shall supervise and direct the work using skillful labor and proper equipment for all tasks. Safety of the vendor's personnel and equipment is the responsibility of the vendor. Additionally, the vendor shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract.
15. The vendor and all of its employees, agents, contractors, etc. shall be duly licensed in accordance with all federal, state and local rules and statutory requirements to perform the work.
16. The City may suspend vendor operations due to inclement weather. If the City makes such an election, the performance period will change to July 5, 2019 (Rain Date).
17. The vendor shall not conduct any business outside the scope of this RFP including, but not limited to, the selling of the materials, on City property.

Payment

The successful vendor shall receive payment when the work is completed. To receive payment, the vendor shall submit an invoice to the City.

The City may withhold payments hereunder for reasons including, but not limited to, the following: unsatisfactory job performance or progress, defective work, disputed work, failure to comply with material provisions of the contract, third-party claims filed, or reasonable evidence that a claim will be filed or other reasonable cause.

Changes, Additions, Deduction, and Additional Work

Upon proper action by the City, the City may authorize changes, additions, or deductions from the scope of work to be performed. The authorization must be by written notice to the vendor. No extra work shall be done or any obligation incurred except upon written order by the City. If any change causes an increase or decrease in the vendor's cost of, or the time required for, the performance of any part of the work under this contract, the City shall make an equitable adjustment and modify the contract in writing.

Termination of Contract

The City may, by written notice to the vendor, terminate this agreement in whole or in part at any time, either for the City's convenience or for cause. Upon receipt of notice, the vendor shall immediately discontinue all services affected, unless the notice directs otherwise.

If the termination is for the convenience of the City, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit or unperformed service.

This contract shall be terminated for cause if the vendor defaults in the performance of any of the terms hereof including, but not limited to, unsatisfactory job performance or progress, defective work, disputed work, failure to comply with material provisions of the contract, third-party claims filed or reasonable evidence that a claim will be filed, or other reasonable cause, or otherwise fails to cure any other deficiency identified by the City within 24 hours of delivery of notice of said deficiency. The City retains all other legal or equitable rights or remedies existing as a result of said default, including, but not limited to, any legal process necessary to obtain any sureties securing this contract. Any reasonable attorney's fee incurred in enforcing this contract will not exceed 5 percent of said contract price.

Independent Contractor Status

The parties agree that the vendor operates an independent business and is contracting to do work according to its own methods, without being subject to the control of the City, except as to the product or the result of the work. The relationship between the City and the vendor shall be that as between an independent contractor and the City and not as an employer-employee relationship. The payment to the vendor is inclusive of any use, excise, income, or any other tax arising out of this agreement.

Indemnification and Insurance Requirements

To the fullest extent permitted by New York law, the vendor, its subcontractors, agents, servants, officers, or employees, shall indemnify and hold harmless the City, including, but not limited to, its elected and appointed officials, officers, employees, and agents from any and all claims brought by any person or entity whatsoever, arising from any act, error, or omission of the provider during the vendor's performance of the agreement or any other agreements of the vendor, entered into by reason thereof. The vendor shall indemnify and defend the City, including, but not limited to, its elected and appointed officials, officers, employees, and agents with respect to any claim arising, or alleged to have arisen from negligence, and/or willful, wanton, or reckless acts or omissions of the vendor, its subcontractors, agents, servants, officers, or employees, and any and all losses or liabilities resulting from any such claims, including, but not limited to, damage awards, costs and reasonable attorney's fees. The indemnification shall not be affected by any other portions of the agreement relating to insurance requirements.

The vendor agrees that it will procure and keep in force at all times at its own expense, insurance in accordance with the requirements set forth in Exhibit A hereto.

Section 3 - Award

It is the City's intent to enter into an agreement with the vendor with the lowest total cost who best demonstrates the ability and technical plan to produce the required fireworks display. The evaluation criteria used for this RFP is as follows:

Display Proposal	65%
Cost	25%
Project Management	10%

The City has a maximum of Twenty-Five Thousand Dollars (\$25,000.00) allocated for this event, and as such proposals exceeding this amount shall not be considered.

The City may award the work, in whole or in part, to vendor(s) to perform the work described herein. The City reserves the right to reject any and all bids, waive technicalities, and make the award(s) as deemed in the best interest of the City.

Section 4 - Standard Proposal Information

Authorized Signature

An individual authorized to bind the vendor to the provisions of the RFP must sign the proposal.

Certifications Required

Vendors shall complete and return the "Vendor's Certification & Assignment of Claim", the "Affidavit of Non-Collusive Submission Certification" and the "Certification of Compliance with the Iran Divestment Act" attached hereto as Exhibit B. Failure to complete, sign and have notarized the aforementioned certifications may result in the submission being rejected.

City Not Responsible for Preparation Costs

The City will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

Site Visit

Any vendor wishing to visit the site prior to submitting a proposal may make arrangements to do so by contacting the Department of Public Works at 716-286-4841. Vendors entering the site do so at their own risk and assume any and all liability for any damages or injuries suffered as a result of their presence at the site.

Special Conditions

The City reserves the right to reject any and all proposals, to waive informalities, and to select the proposal and developer(s) that, in the City's sole discretion, are in the best interests of the city of Niagara Falls, New York.

The City further reserves the right to:

1. Amend, modify, or withdraw this RFP.
2. Revise any requirements under this RFP.
3. Require supplemental statements of information from any responding party.
4. Extend the deadline for submission of responses hereto.
5. Negotiate or hold discussions with any bidder to correct insufficient responses that do not completely conform to the instructions contained herein.
6. Waive any nonconformity with this RFP.
7. Cancel, in whole or in part, this RFP if the City deems it is in its best interest to do so.
8. Request additional information or clarification of information provided in the response without changing the terms of the RFP.
9. Waive any portion of the selection process in order to accelerate the selection and negotiation with the top-ranked vendor.
10. Not award a contract as a part of, or result of, this RFP process.

The City may exercise the foregoing rights at any time without notice and without liability to any bidder, or any other party, for expenses incurred in the preparation of responses hereto or otherwise.

EXHIBIT

A

INSTRUCTIONS FOR
CITY OF NIAGARA FALLS STANDARD INSURANCE CERTIFICATE

Standard Insurance Requirements apply to the following classifications:

Construction and Maintenance
Purchase of, or lease of merchandise or equipment
Professional Services
Property Leased to others or Use of Facilities or grounds
Concessionaire Services
Livery Services
All Purpose Public Entity Contracts

The Provider of any of the above classifications shall obtain, at his own costs and expense, the following insurance coverage with insurance companies licensed in the State of New York with a Best Rating of at least B+ and shall provide a Certificate of Insurance as evidence of such coverage to the City of Niagara Falls before commencement of work and/or lease or delivery of merchandise or equipment.

Certificate should be delivered to the City of Niagara Falls, New York, 745 Main Street, Rom 242, P.O. Box 69, Niagara Falls, New York 14302-0069 and should reference the contract, bid, quote, RFP or operation being performed.

Prior to non-renewal, cancellation of insurance policies, or material change, at least 30 days advance written notice shall be given to the Certificate Holder.

All Certificates of Insurance shall be approved by the Risk Management Department prior to the inception of any work.

Minimum coverage with limits and provisions are as follows:

A. **Comprehensive General Liability**

With a minimum combined single limit of liability for Bodily Injury and Property Damage of \$1,500,000.00 per occurrence and \$3,000,000.00 annual aggregate. The coverage shall include:

- * Premises and Operations
- * Products and Completed Operations
- * No exclusion for X C U coverage (explosion, collapse and underground)
- * Independent Contractors
- * Broad Form Property Damage
- * Contractual Liability
- * Fire Legal Liability (Covered by a standalone limit of \$1,000,000)
- * Personal Injury Liability (Cov. A, B and C)
- * Liquor Liability (if alcoholic beverages are to be dispensed under NYS License.)
- * If the work to be performed is undertaken pursuant to a home improvement contract and a City right-of-way permit is required only by reason of the installation, repair or replacement of a driveway, apron, or sidewalk within the City right-of-way, then the limits of liability for comprehensive general liability set forth in this section shall be \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

The City of Niagara Falls shall be named as an Additional Insured on the General Liability Policy with the following provisions:

1. The insurance company or companies issuing the policies shall have no recourse against the City of Niagara Falls for payment of any premiums or for assessments under any form of policy.
2. The insurance shall apply separately to each insured (except with respect to the limit of liability).
- B. **Auto Liability:** (if licensed vehicles are to be used in the operation) With a combined single limit for Bodily Injury and Property Damage of \$1,000,000.00 each occurrence, the coverage shall include Owned, Hired and Non-owned autos (Symbol 1 should be designated for Liability Coverage on Business Auto Policy).
- C. **Excess Umbrella Liability:** If General Liability and/or auto limits are lower than required in the above sections, Umbrella Liability or Excess Liability to the required limit is acceptable.
- D. **Owners Protective Liability:** (on contracts for construction which exceed a cost of \$100,000) With a minimum limit of \$1,500,000.00 each occurrence and \$3,000,000.00 aggregate. Named insured shall be the City of Niagara Falls, New York.
- E. **Professional Liability:** If the contract includes professional services (engineers, architects, etc.,) contractor will carry professional liability insurance with a minimum limit of one million dollars (\$1,000,000.00).
- F. **Property Insurance:** (if applicable) Contractor shall purchase and maintain property insurance upon the work at or off the site to 100% of the contract completed value. This insurance shall include the interest of the Owner, Contractor and Subcontractors in the work; shall insure against the perils of fire and extended coverage; shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage. All such insurance required by this paragraph shall remain in effect until the work is completed and accepted by the Owner.
- G. **Statutory Workers' Compensation and Employers Liability:** All contractors doing business with or vendors entering upon City of Niagara Falls property shall carry the above insurance, in compliance with the Workers' Compensation Law of the State of New York.
- H. **Performance and Payment Bond: (if specified in bid request)** A performance and payment bond shall be issued by a Surety company who is licensed by the Insurance Department of the State of New York in favor of the City of Niagara Falls in the amount of not less than N/A per centum of the total amount and shall be delivered before commencement of lease or assumption of operations under contract.

NOTE: IF THE CONTRACT IS FOR PROFESSIONAL SERVICES ONLY, (ENGINEERS, ARCHITECTS, ETC.,) PARAGRAPHS D, F AND H WILL NOT APPLY.

Revised 02-16-2018

EXHIBIT

B

VENDOR'S CERTIFICATION & ASSIGNMENT OF CLAIM

**THIS FORM MUST BE COMPLETED IN INK, BE TYPED OR BE COMPUTER GENERATED,
BE CLEARLY LEGIBLE AND BE SIGNED AND DATED WITH EITHER BLUE OR BLACK INK.
FAILURE TO DO THIS MAY RESULT IN REJECTION.**

I/We, the undersigned, herewith propose and agree to furnish to the City any one or all of the items upon which we have submitted, for the prices indicated herein, in accordance with the instructions, General Conditions and Specific Terms, Conditions and Specifications and any other related formal documents.

The undersigned individual certifies to having read these Instructions, General Conditions, Specific Terms, Conditions and Specifications and any other related formal documents and offers to furnish the articles specified to the City in exact accordance with same at the prices herein stated.

Vendor hereby assigns to the City and the State of New York any and all of its claim(s) for overcharges associated with this contract/agreement which arise under the antitrust laws of the United States, 15 U.S.C. Section 1, et seq. and the antitrust laws of the State of New York, G.B.L. Section 340, et seq.

VENDOR NAME

ADDRESS

CITY, STATE, ZIP

TELEPHONE NUMBER

EMAIL ADDRESS

NAME & TITLE OF AUTHORIZED CONTACT

AUTHORIZED SIGNATURE

DATE

AFFIDAVIT OF NON-COLLUSIVE SUBMISSION CERTIFICATION

I hereby attest and certify that I am the person responsible within my firm for the final decision as to price(s) and amount of this submission, or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm. I further attest and certify that:

1. The price(s) and amount(s) of this submission have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition with any other contractor, vendor, bidder, or potential bidder.
2. Neither the price(s) nor the amount(s) of this submission have been disclosed to any other vendor, firm or person who is submitting or potentially submitting on this project, and will not so be disclosed prior to submission opening.
3. No attempt has been made or will be made to solicit, cause or induce any vendor, firm or person to refrain from submitting on this project, or to submit a higher price than the submission of this firm, or any intentionally high or non-competitive submission or other form of complementary submission.
4. The submission of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any vendor, firm or person to submit a complementary submission.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any vendor, firm or person, or offered, promised or paid cash or anything of value to any vendor, firm or person, whether in connection with this or any other project in consideration for an agreement or promise by any vendor, firm or person to refrain from submitting or to submit a complementary submission on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any vendor, firm or person, and has not been promised or paid cash or anything of value by any vendor, firm or person, whether in connection with this or any other project, in consideration for my firm's submitting a complementary submission, or agreeing to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's submission on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made.

**SUBMISSION IS NOT ACCEPTABLE WITHOUT THE ABOVE AFFIDAVIT
SIGNED AND CERTIFIED BY A NOTARY PUBLIC**

VENDOR NAME

ADDRESS

CITY, STATE, ZIP

TELEPHONE NUMBER

NAME & TITLE

AUTHORIZED SIGNATURE

Sworn to before me this _____ day
of _____, 20__

Notary Public

CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g. both effective April 12, 2012. Under the Act, the Commissioner of the office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By making a submission in response to this offering or by assuming the responsibility of an contract/agreement hereunder, each Vendor/Bidder/Contractor, any person signing on behalf of any Vendor/Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website that to the best of its knowledge and belief that each Vendor/Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Vendor/Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Vendor/Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this offering must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the agreement or contract, should the City receive information that a Vendor/Bidder/Contractor is in violation of the above-referenced certification, the City will offer the person, vendor or entity an opportunity to respond. If the person, vendor or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the City shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Vendor/Bidder/Contractor in default.

The City reserves the right to reject any bid or request for assignment for a Vendor/Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Vendor/Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, _____, being duly sworn, depose and say that I am the _____ of _____, the vendor making this submission and that neither Vendor/Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

Authorized Signature

Sworn to before me this ____ day
of _____, 20__

Notary Public

NON-SUBMISSION CERTIFICATE

Instructions

1. Place an X on the appropriate line(s) below.
2. Complete and return **ONLY** this page of the package.
3. Make sure to place your submission number on your envelope and return it to the Purchasing Division

NOTE: It is required that you indicate your reason for not making a submission.

____ We are not making a submission.

____ We request that you remove our name from the mailing list for this offering only.

____ We request that you remove our name from the mailing list for all future offerings made by the City.

VENDOR NAME: _____

ADDRESS: _____

CITY, STATE and ZIP CODE: _____

REASON FOR NOT MAKING A SUBMISSION:

SIGNATURE: _____