

STATE OF NEW JERSEY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF PARKS AND FORESTRY

Request for Proposal

for

Food and Food Services

at

Island Beach State Park

Berkeley, Ocean County

Release Date: February 2, 2015

**Mandatory Pre-Bid**

**Meeting and Site Visit,**

**and Written Question**

**Cut-Off Date: February 17, 2015**

**Bid Submission Due Date: March 19, 2015**

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**1.0 GENERAL INFORMATION**

**1.1 Purpose and Intent**

This Request for Proposal (RFP) is issued by the New Jersey Department of Environmental Protection (Department), Division of Parks and Forestry (Division), on behalf of the State of New Jersey (the State). The purpose of this RFP is to solicit proposals from qualified organizations to provide high-quality food and food services and events at Island Beach State Park (Park), Township of Berkeley, County of Ocean, New Jersey, a map of which is attached hereto as Exhibit A.

It is the goal of the State to select an Operator to provide daily food and food services to the public from Ocean Bathing Area #1 (OBA1) and Ocean Bathing Area #2 (OBA2), and to provide events at locations throughout the Park, with the expertise and resources to provide high quality food and food services at competitive prices. To satisfy this goal, the Department intends to enter into an Operation Agreement with an organization which has the demonstrated financial capacity and food and food services experience to operate daily the OBA1 and OBA2 food services and create events over the life of the Agreement. There are two “seasons” for this RFP: the normal summer season which runs from the Saturday of Memorial Day weekend through Labor Day, known as the Summer Season, and the extended season that runs from April 1st through the Friday before Memorial Day, and the Tuesday after Labor Day through November 1st, both periods collectively known as the Extended Season. The Operator shall, at a minimum, provide:

˖ At OBA1 - Daily food and food services from 10 a.m. to 4 p.m. during the Summer Season;

˖ At OBA1 - Daily food and food services from 10 a.m. to 4 p.m. on Fridays, Saturdays, Sundays and Mondays during the month of September after Labor Day;

˖ At OBA2 - Daily food and food services from 10 a.m. through 4 p.m. from the third weekend in June through Labor Day; and

˖ At Various Locations - Events primarily during the Extended Season, at various locations throughout the Park with the Superintendent’s prior approval. During the Extended Season in the month of September at OBA1 events cannot be scheduled on Fridays, Saturdays, Sundays, and Mondays during the peak beach attendance hours of 10:00 a.m. to 6:00 p.m. and must be scheduled after 6:00 p.m. In the alternative, events may be scheduled at OBA2 where there is no day or time restriction in September. Events cannot be scheduled during the Summer Season for during or immediately after the peak beach attendance hours of 10 a.m. to 6 p.m., and must be scheduled for after 6 p.m. It is anticipated that most events will be planned for the Extended Season.

This RFP is in no way limiting the types of food, food services, or events the successful bidder may hold at the Park. For example, the Park would welcome a bidder who proposes to park food trucks at various locations within the Park to service overflow patrons at OBA1 and OBA2, or at fishing beach access points A7 and A23 to provide food and food services to the fishermen. The Department welcomes the expansion of food and food services and the use of the Park for diverse events as long as those events do not violate this RFP, the Operation Agreement, or any documents made a part thereof.

The winning bidder shall enter into a ten (10) year Operation Agreement with one option to renew for an additional ten-year period for a total of twenty years. A draft Operation Agreement is attached hereto as Exhibit B. The terms are renewable at the sole discretion of the Department, based on the Operator’s compliance with the terms and conditions of the Operation Agreement; the Operator’s completion of improvements to OBA1 and OBA2; the determination that the continued use of the Park’s buildings and locations is consistent with reasonably anticipated plans for the development or use of the Park by the Department; and the renewal is in the public interest.

As consideration for entering into the Operation Agreement, the successful bidder shall pay the State $75,000 as an annual fixed rent, adjusted annually by 3%, plus a percentage of its annual gross receipts. Bidders must propose the percentage of their annual gross receipts that will be paid to the State; the proposed percentage must be at least five percent (5%). The winning bidder shall be the qualified, responsible, and experienced bidder whose proposal is most responsive to the State’s goal, whose plan provides a realistic means of generating revenue for the State, and other factors.

The winning bidder may apply for an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control to sell and serve alcoholic beverages for on-premise consumption in conjunction with the service of food only and only at events. This means that alcohol may only be served after 6 p.m. during the Summer Season, or te for servicing and consumptionof its annual gross revenue.alcohol may be served any time during the Extended Season as long as it is at an event. The intent of this RFP is for the day-to-day operation of food services and for the sale and on-premise consumption of alcoholic beverages only in conjunction with events. At no time may the successful bidder sell alcohol without the sale of food or operate as a bar.

All bidders shall submit as part of their bid proposals a Management Plan setting out in detail how they propose to operate OBA1 and OBA2 and provide food and food services and events.

**1.2 Background**

**History**. The strip of land and buildings comprising Island Beach State Park were purchased by the State in 1953 from the Estate of Henry C. Phipps, a partner of Andrew Carnegie. The Park consists of 2,694 acres stretching almost 10 miles just south of the Township of Berkeley and north of the Barnegat Inlet, between the Atlantic Ocean and the Barnegat Bay. The Park opened in 1959. This stretch of land has two natural areas consisting of approximately 660 acres in the north and approximately 1,240 acres in the south. The southern natural area includes the Sedge Islands Marine Conservation Zone. The Northern and Southern Natural Areas are subject to the Natural Areas and the Natural Areas System Rules, N.J.A.C. 7:5A-1 et seq. For this reason, these natural areas are not a part of this RFP except where indicated on the Map at Exhibit A. In addition to these natural areas, the Park consists of a middle section, known as the Recreation Zone, which is approximately 800 acres. It is within the Recreation Zone that OBA1 and OBA2 are located.

**Amenities.** Island Beach State Park receives over 10,000 visitors a day during the Summer Season. The main attraction is sunbathing and swimming. Some of the current amenities at the Park include: fishing areas including mobile sportfishing, a bike trail, natural areas with limited public access/activities allowed, horseback riding areas (off-season only), ocean front swimming, grill and beach fire areas for picnicking, a windsurfing and surfing area, an area for scuba diving, canoe and kayak launches, and a spear and underwater fishing area. Off season a secondary, smaller attraction begins with mobile sport fishing which attracts more than 6,000 people in the Spring and approximately 12,000 people in the Fall per year. The Park recently expanded the swimming season to run through the end of September but only on Fridays, Saturdays, Sundays, and Mondays.

**Operational Area.** In addition to the land, the Park contains a number of buildings. Only those areas of OBA1 and OBA2 that are the responsibility of the Operator are outlined here. Those areas in OBA1 are: the kitchen, office and storage area on one side of the breezeway, and a small concession area with storage on the other side of the breezeway. The areas available to the Operator in OBA2 are the kitchen, office within the kitchen area, and two storage areas one of which has a concession window that opens to the patio. Also a part of the Operational Area are one-third of the length of the breezeways nearest the kitchens and the identified areas of the patio around both of the OBAs for the placement of tables for the exclusive use by Operator’s patrons. The balance of the breezeways and the patios are to be open to public use at all times. See the Maps at Exhibit C for the Operational Area. OBA1 and OBA2 not only have these identified areas within them but also have restrooms, showers, changing areas, and other offices which are not a part of this RFP. The successful bidder shall be responsible for the Operational Area and for trash pick-up in and around OBA1 and OBA2, around any mobile truck/cart locations, the storage of the trash prior to pick-up by a trash hauler, and all expenses related to trash pick-up and having it hauled out of the Park. In addition the Operator is responsible for paying for Operator’s utilities, and the maintenance and repair costs of Operator’s utilities pursuant to paragraph 1.2.4. Utilities. Operator shall have four parking spaces allotted for its use at both OBA1 and OBA2 for a total of eight parking spaces. The rest of the parking lots are not a part of this RFP but may be used by the Operator for events with the prior written approval of the Superintendent.

**Days and Hours.** The Park is open every day. However, because the bathrooms are not heated and are winterized by mid-November, the Operator may not offer food and food services or events at OBA1 and OBA2 from November 2 through March 31 unless the Operator installs heat as part of an alternative Improvement project under paragraph 1.2.5.

From May 1 through October 31, Park hours are 8 a.m. to 8 p.m. From November 1 through April 30, Park hours are from dawn to dusk. However, fishermen are allowed in 24 hours a day year round. The successful bidder’s events may go beyond the closing time of the Park.

**Options.** Over the years, the Park has had a yearly food concessionaire providing food at OBA1 and OBA2. The food has been mostly hotdogs and hamburgers. The entire State Park Service is moving away from the ordinary fare offered by these yearly concessionaires and has instituted healthier food options as food preparation and service areas become available. In addition, the Park has many visitors who arrive before 10 a.m. and remain after 4 p.m. during the summer months, and these people are prospective patrons for an Operator who has the foresight and healthy options and food selection to draw them in. Food service is required from 10 a.m. to 4 p.m. as stated above, and the successful bidder may also include the following options in the bidder’s proposal:

˖ Daily food and food services at any time between 10:00 a.m. and 8 p.m. offered from a truck or cart located at A7, A23, and/or various other pre-approved places in the Park; and

˖ Coffee, tea, etc. and easy to carry breakfast-type food items in the morning (6 a.m. to 10 a.m.) during the fishing season which runs in the off-season from October through December, and April through May. Please note that OBA1 and OBA2 are closed in the months of November and December during the fishing season.

Food trucks/carts will be allowed any time during the year at A7 and A23 as detailed on the attached Map, or other locations as identified by the successful bidder and pre-approved by the Superintendent in writing. Neither electricity nor bathrooms will be available at these remote locations unless the successful bidder places portable toilets nearby. The addition of portable toilets shall only be allowed with the prior written approval of the Superintendent, and the cost for such toilets shall be at the successful bidder’s sole expense.

With the Superintendent’s prior written approval, the Operator may use the Forked River Coast Guard Station No. 112 Interpretive Center in the Southern Natural Area. The Interpretive Center has bathrooms and a space for visiting school children along with the exhibits of the wildlife and plants of Island Beach, and may be used for small events.

A temporary tent may be placed on the beach only at OBA2 and only from April 1 through the Friday before the third weekend in June, and from the Tuesday after Labor Day through October 31. Any tent must be installed immediately before the event and no more than one day prior, and the tent must be removed from the beach immediately after the event and no more than the next day. No tent may be on the beach for longer than three days from the beginning of construction of the tent until it is fully removed from the beach. Island Beach State Park has sustained winds coming off the ocean that make it impossible to leave any tent in place for more than a few days.

Regardless of the location of the food and food services, the food sold shall be of a high quality and prepared in a healthy way. Such food offerings should be consistent with the most recent Dietary Guidelines published by United States Department of Agriculture’s Center for Nutrition Policy and Promotion (<http://www.cnpp.usda.gov/DietaryGuidelines.htm>). Bidders are strongly encouraged to read and consider the National Parks Services’ Healthy Food Strategy tools and information entitled *Food for the Parks: Case Studies of Sustainable Foods* and *Food for the Parks: A Roadmap to Success Toolkit* that can be found at <http://www.concessions.nps.gov/tools_others.htm>, under Environmental Management, Healthy Foods. Food selections may not be served until approved by the Department in writing.

The Department is interested in adding events at the Park. The Park hosts a few events per year, however, there is a great untapped potential to host more events at the Park. The Park intends to generate funds by awarding the RFP to a bidder who has the ability to offer events to the Park and who has the vision to make the Park a destination beyond the summer season. Other than the successful bidder’s events, the Park currently hosts Ocean Fun Day, the Governor’s Surf Fishing Tournament, Harvest the Bay Festival, and the Beach Plum Festival during which it is expected that the successful bidder will participate. Bidders should note that there will be other food vendors at the Park during these yearly Park events; however, those vendors typically serve only beverages or minor food items. There are also two small friends group, the Friends of Island Beach State Park and the New Jersey Beach Buggy Association, which the successful bidder may want to work with on fundraising events.

The Department welcomes the use of the Park for diverse activities and uses as long as those activities and/or uses are in keeping with the characteristics of the Park and within the mission of the State Parks, and, as stated above, those activities and/or uses do not violate this RFP, the Operation Agreement, or any documents made a part thereof. The mission of the State Parks is as follows:

“The New Jersey Division of Parks & Forestry is dedicated to the excellent stewardship of the state’s rich and diverse historical, cultural, recreational and natural resources for the benefit of present and future generations. We are committed to establishing a creative and cooperative environment that attracts and retains dedicated employees and promotes dynamic partnerships to effectively manage the resources entrusted to us.”

**Emergency Closures.** Access to Island Beach State Park and OBA1 and OBA2 may be restricted during the normal Atlantic Hurricane season of June 1 through November 30 as storms may force the closure of the Park. In addition to the closure of the Park during a State Emergency, Park staff periodically order the closure of the Park during the summer due to electrical storms. A closure will be ordered due to electrical storms when there is any evidence of electrical activity in the form of thunder and/or lightening, and the closure will not be lifted until there is no evidence of electrical activity for at least 45 minutes. During these non-State Emergency closures, people must come out of the water but do not have to leave the Park and typically gather in the breezeways of OBA1 and OBA2. If the Park is closed, whether for a State Emergency or electric storm, or for any other emergency reason, the Department is not responsible for any events that must be cancelled or for any storm damage. The Department is not responsible for ensuring the roads are passable or open to the successful bidder. The Department is not responsible for power outages or other interruptions that occur due to downed trees and/or power lines.

**Kitchen Equipment.**  The equipment, including the freezers, currently in the OBA1 and OBA2 kitchens belongs to the Park. However, the equipment is old. Park staff members have created a list of the equipment which is attached hereto as Exhibit D. Any equipment not needed by the successful bidder shall be removed by the Park. The successful bidder will provide all of the personal property items, as defined below, needed to make the kitchens functional and to provide food and food services. In addition, the successful bidder is required to make Improvements to the OBA1 and OBA2 kitchens in order for the Operation Agreement to be renewed for the ten (10) year renewal period, unless the successful bidder comes up with a comparable alternative acceptable to the Department. See paragraph 1.2.5. Improvements, below.

**Parking Fees.** The Park charges a fee for cars and buses to park. This fee is set solely by the State Park Service. The fee is and shall remain entirely the revenue of the Park and the property of the State. Bidders should consider this fee in their proposals. Parking arrangements may be made for attendees at events who pre-pay the parking fee (for example, the bridal party and attendees at the wedding and reception); however, parking fees for events shall not be waived by the Park.

**1.2.1**  **Structures and Facilities**

This RFP includes two buildings known as OBA1 and OBA2. At a minimum, the successful bidder is responsible as follows: in OBA1 - the kitchen, office and storage area on one side of the breezeway, and a small concession area with storage on the other side of the breezeway; in OBA2 - the kitchen and office, and two storage areas one with a concession window to the patio. The Operator is also responsible for one-third of the breezeway and patios as outlined in the Maps at Exhibit C, and the Operator is responsible for all trash pick-up in the breezeways and the patio areas around both of the OBAs. See the Maps of OBA1 and OBA2 at Exhibit C for the Operational Area. If the successful bidder proposes the use of food trucks or events at locations other than OBA1 and OBA2, the successful bidder shall be responsible for garbage pick-up at those locations.

The successful bidder shall receive keys to the OBA1 and OBA2 kitchens and storage areas. Upon the end of the term of the Operation Agreement, Operator shall surrender the keys to the Department.

Bidders shall explain what Improvements they may make to OBA1 and/or OBA2, if any, as part of their proposals. These improvements shall include the Improvements Operator will make as a part of the paragraph 1.2.5 Improvements. The successful bidder may not make any improvements to any part of Island Beach State Park without prior Departmental approval.

“As-Built” drawings will be available at the Mandatory Meeting for both OBA1 and/or OBA2.

1.2.2 Alcohol License

The Operator shall be allowed to secure an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control, for the service and consumption of alcoholic beverages at events. Because this is State-owned land, the successful bidder must obtain the license from the New Jersey Division of Alcoholic Beverage Control and not from the local municipality. If the Operator obtains an Annual State Permit from the New Jersey Division of Alcoholic Beverage Control, it will be required to directly provide the alcoholic beverages at the Park and will not be permitted to enter into a subcontract for this operation. Additionally, the service and consumption of alcoholic beverages will only be allowed during events, and during the Extended Season. Daily service and consumption will not be allowed from or on OBA1 and OBA2 during the Summer Season.

It is the intent of the Department that alcoholic beverage service be associated with the service of meals and, therefore, bar service is precluded. However, it is not the intent of the Department to limit the types of events and activities the Operator may hold at the Park. Nothing in this RFP or any of the attachments hereto shall be construed as a guarantee that the successful bidder shall obtain a liquor license from the New Jersey Division of Alcoholic Beverage Control. The successful bidder is expected to perform under this RFP regardless of its ability to obtain a liquor license. Failure to obtain a liquor license does not negate or void this RFP or the resulting Operation Agreement in any way and Operator shall be expected to perform under the Operation Agreement.

1.2.3 Maintenance

The Operator shall be required to perform routine maintenance and repairs of the Operational Area in both OBA1 and OBA2. Notification of all repairs shall be made to the Park Office. The Operator shall be responsible for making repairs and maintaining the Operational Area at Operator’s sole expense. The successful bidder shall be given the Park Office contact information.

The Operator shall be solely responsible for trash removal from within and outside OBA1, OBA2, all mobile truck/cart locations, and during and after any of the Operator’s events, and shall be responsible for providing animal-resistant trash bins/dumpsters for Operator’s use and at Operator’s sole expense. Trash removal from the dumpster(s) shall be Operator’s responsibility and at Operator’s sole expense. The Operator shall participate in and comply with all applicable recycling programs in effect in Berkeley Township and/or Ocean County.

Operator shall ensure that the Operational Area is thoroughly clean at all times and especially just prior to closing. As a State Park with two large natural areas, there is a possibility of animals being attracted to the OBAs if the kitchens are not kept clean and the garbage is not removed to animal resistant dumpsters.

In addition, Operator shall be solely responsible for any and all utilities, and the maintenance and repair of those utilities, as outlined below in section 1.2.4. Utilities.

**1.2.4 Utilities**

Because the prior vendor’s arrangement with the Park regarding the utilities was substantially different, the Department has no historical data about what were the actual costs of the utilities. Bidders should consider what the costs may be to them based on their prior experience. The successful bidder shall be responsible for paying for all utility usage as well as the cost to maintain and repair the systems. The Department shall be responsible for only those utilities, utility systems, and repairs as outlined below.

(i) Electricity

Jersey Central Power & Light provides electricity to the Park and OBA1 and OBA2. There is a separate electricity meter for the OBA1 and OBA2 buildings; however, the Department has paid the electricity as a combined bill and does not have a break-out of those costs at this time. If the Department obtains the electrical costs prior to the Mandatory Meeting, the costs will be shared at that Meeting. The Operator shall be solely responsible for the costs of the electricity for the OBA1 and OBA2 kitchens. Additionally, Operator shall be solely responsible for the maintenance and repair of the electricity and electrical systems for the OBA1 and OBA2 kitchens at Operator’s sole expense. The electricity use associated with the rest of OBA1 and OBA2 shall be paid by the Department.

(ii) Heat/Air Conditioning

There is no heat or air conditioning in OBA1 or OBA2. Every year the buildings are winterized by mid-November by the Park staff. If the successful bidder wants to provide food and food services and/or events beyond November 1, the successful bidder may install heat in OBA1 and/or OBA2. The successful bidder may install air conditioning in the Operational Area as well. The successful bidder may heat and/or air condition OBA1 and/or OBA2 as part of the Improvements under paragraph 1.2.5. below. Any addition of heat or air conditioning shall be installed, maintained, and repaired at Operator’s sole expense.

(iii) Water

The water service to the Park is city water. As there is no way to separate out the Operator’s water use from the rest of the Park, the Department will pay for the water used by the Operator.

(iv) Septic System

There is a 2,000 gallon underground septic tank at OBA1 and a 2,000 gallon septic tank at OBA2. The Department shall maintain the septic system and tanks.

(vi) Communications

There are landline-based telephone wires running through the Park and at OBA1 and OBA2 which Operator may choose to make use of by contacting Verizon or another telephone provider to obtain service. Regardless of whether Operator chooses to use the landline telephone wires, Operator shall be solely responsible for Operator’s telephone, cellular, internet, or other communications service(s) and obtaining telephone(s), computer(s) and other equipment at Operator’s sole expense.

1.2.5 Improvements

Immediate Improvements. Operator may make permanent and semi-permanent improvements to OBA1 and/or OBA2. The successful bidder shall explain the immediate changes the bidder would like to make to each structure as a part of the bidder’s proposal. All immediate improvements made to or added to OBA1 and/or OBA2 shall be maintained and repaired by the Operator but shall become the property of the Department at the end or termination of the Operation Agreement. The Department will not be responsible for these improvements should the Operator not undertake them.

Renewal Improvements. In order for the Department to consider whether to renew the Operation Agreement at the end of the initial term, Operator must have received the funds for and completed the improvements that have been approved by the Department during the initial term. The Department has identified as an Improvement project that will result in a renewal as follows: gutting to the studs and renovating and updating the kitchens of OBA1 and OBA2.

Operator may propose an alternative improvement that may be eligible to renew the Operation Agreement; however, it is in the Department’s sole discretion whether to accept that project as meeting the term of the Operating Agreement for the renewal. Regardless of which Improvement project Operator undertakes, Operator must receive approval from the Department for the construction by year five, begin construction by year six, and must complete the construction by year eight of the Agreement. All renewal improvements made to or added to OBA1 and OBA2 shall be maintained and repaired by the Operator but shall become the property of the Department at the end or termination of the Operation Agreement. The Department will not be responsible for these improvements should the Operator not undertake them.

Operator shall be responsible to obtain and pay for all necessary permits for the making of improvements at OBA1 and OBA2 and shall pay Prevailing Wage for all construction projects. See section 5.6, Prevailing Wage Act, for further information. The contractor must comply with the New Jersey Uniform Construction Code and the latest National Electric Code NEC70, [Building Officials Code Administrators International](http://en.wikipedia.org/w/index.php?title=Building_Officials_Code_Administrators_International&action=edit&redlink=1) B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement.

In addition, the Operator may place signs at the entrance to the Park, and shall place such permanent and semi-permanent signs as detailed in the Operator’s bid with Department approval and at Operator’s sole expense.

**1.2.6 Personal Property**

The Operator shall be solely responsible for providing all food, equipment, tables, chairs, linens, china, glassware, silverware, food trucks and/or carts, and other such personal property (as defined below) necessary to operate OBA1 and OBA2 and to provide events under this RFP.

Prior to the Operation Agreement being signed, the successful bidder shall provide a list of all items that are personal property that shall not become a part of the Department’s property. The list of personal property items shall be attached as an exhibit to the Operation Agreement.

**1.2.7 Security**

The Operator shall be responsible for crowd control for the Operator’s events. If the Operator has an emergency requiring immediate assistance, Operator shall call Park Police Dispatch at 1-877-WARN-DEP (1-877-927-6337). Otherwise, the Operator shall be responsible for its own security and at Operator’s sole expense.

The Operator shall be solely responsible for security of the areas under Operator’s control in OBA1 and OBA2 against burglary, theft, vandalism and unauthorized entry. The Operator shall call Park Police Dispatch whenever any illegal activity has occurred.

**1.2.8 Revenue; Audits**

The successful bidder will be required to deposit all revenue (cash, checks, credit cards, etc.) into a single bank account, maintained at a bank located within the State of New Jersey and maintained solely for the Island Beach State Park activities, and through which all financial transactions (including but not limited to deposits, withdrawals, and purchases) must pass.

The successful bidder will be required to provide yearly audited Financial Statements conforming to generally accepted accounting principles provided with the audit report of the Independent Certified Public Accounting Firm stating the financial statements present fairly in all material respects the financial position of the company and the results of operations are in conformity with the applicable financial reporting framework.  The opinion must not be a qualified opinion and an adverse opinion will not be accepted.   Financial statement compilations, financial statement reviews, or any other lower level of financial statements will not be accepted in lieu of an audit.

**1.3 Key Events**

The winning bidder shall meet with members of the Department within seven (7) days of the proposal award to sign the Operation Agreement. The winning bidder must be prepared to assume full operation of OBA1 and OBA2 on or before Saturday, May 23, 2015.

**1.3.1 Questions and Inquiries**

The Department will accept questions and inquiries from all potential bidders receiving this RFP. No oral communication is permitted. Questions shall be submitted in writing only, via mail or email, to the Department at the following address:

Department of Environmental Protection

Office of Leases and Concessions

Attention: George Chidley, Acting Administrator

Mail Code 501-04C

P.O. Box 420

Trenton, NJ 08625-0420

Send email to:

[officeofleases@dep.nj.gov](mailto:officeofleases@dep.nj.gov)

**1.3.1.1 Submission Cut-Off Date**

The cut-off date for the submission of questions shall be the date of the Mandatory Pre-Bid Meeting and Site Visit (“Meeting”), details of which are set forth in Subsection 1.3.2 below. While all questions will be entertained at the Meeting, it is strongly urged that questions be submitted in writing prior to the Meeting. Written questions must be delivered to the Acting Administrator of the Office of Leases and Concessions as per section 1.3.1, above. It is requested that bidders with long, complex, or multiple-part questions submit them in writing as far in advance as possible, in order for the Department to prepare answers by the time of the Meeting.

**1.3.1.2 Question Protocol**

Questions should be submitted in writing to the attention of the Acting Administrator of the Office of Leases and Concessions. Written questions should be directly tied to the RFP. Questions should be asked in consecutive order, from beginning to end, following the organization of this RFP. Each question should begin by referencing the RFP page number and the section number to which it relates.

Brief procedural inquiries may be accepted over the telephone by the Office of Leases and Concessions. However, oral explanations or instructions given over the phone shall not be binding upon the State. Bidders shall not contact the Division of Parks and Forestry or any other branch of the Department directly, in person or by telephone, concerning this RFP.

**1.3.2 Mandatory Pre-Bid Meeting and Site Visit**

A Mandatory Pre-Bid Meeting and Site Visit (“Meeting”) has been scheduled for this procurement. The Meeting will be held at the Island Beach State Park Office, on Tuesday, February 17, 2015 at 11 a.m. The Park Office is approximately three miles into the Park on the left hand side with flags at the roadside. The Park will waive the parking fee charged at the gate for all bidders who pre-register with the Office of Leases and Concessions by 3 p.m. on Friday, February 13, 2015, by sending an email to the Office of Leases and Concessions email address listed above in paragraph 1.3.1. Pre-registrants shall provide the name or names of the person(s) attending and the name of the company. Bidders who fail to pre-register shall pay the parking fee of $10.00 at the Park gate.

The purpose of the Meeting is to provide a structured and formal opportunity for the Department to accept questions from bidders regarding this RFP. The Meeting also will provide bidders with an opportunity to view OBA1 and OBA2.

**NOTE:** A proposal from a bidder that does not attend or fails to properly register at the Meeting shall be rejected automatically.

Any revisions to the RFP resulting from the Meeting will be formalized and distributed to attendees as written addendum to the RFP. Answers to deferred questions also will be distributed to attendees as written addendum to this RFP. Addenda shall be consecutively numbered, e.g., Addendum No. 1, Addendum #2, etc.

**1.4 Additional Information**

**1.4.1 Revisions to the RFP**

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any RFP addendum will be distributed as follows:

i. Any addendum issued before the Meeting (see Subsection 1.3.2) will be posted on the Office of Leases and Concessions website:

<http://www.nj.gov/dep/parksandforests/parks/business_ops/current_leases.htm>, and

ii. Any addendum issued at the time of or after the Meeting will be distributed only to those bidders who attended and properly registered at the Meeting.

**1.4.2 Addendum as Part of the RFP**

Any addendum to this RFP shall become part of this RFP, as well as part of any agreement resulting from the RFP.

**1.4.3 Issuing Office**

This RFP is issued by the New Jersey Department of Environmental Protection, Office of Leases and Concessions. The Acting Administrator is the sole point of contact between the bidder and the Department for purposes of this RFP.

**1.4.4 Bidder Responsibility**

The bidder assumes sole responsibility for the complete effort required by this RFP. No special consideration shall be given after proposals are opened because of a bidder’s failure to be knowledgeable of and about all the requirements of the RFP. By submitting a proposal in response to this RFP, each bidder represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP. The bidder further represents that it has made its own calculations, based on the information provided and its own research and experience, of costs, expenses, and revenues, for which the Department bears no liability.

**1.4.5 Cost Liability**

The State assumes no responsibility and bears no liability for costs incurred by bidders in the preparation of proposals in response to this RFP. Furthermore, the Department does not warrant or guarantee any current or future revenues that may be generated from operation of OBA1 and OBA2.

**1.4.6 Contents of Proposal**

The entire content of every proposal that is opened and read shall become a public record, notwithstanding any statement to the contrary made by a bidder in its proposal. As public records, all proposals are available for public inspection. Interested parties may schedule an appointment with the Acting Administrator to inspect proposals received in response to this RFP and may also make records request pursuant to the Open Public Records Act.

**1.4.7 Bid and Performance Security**

Neither bid nor performance security is required.

**1.4.8 Price Alteration**

Bid prices must be typed or written in ink. Any price change, including “white-outs,” must be initialed by the bidder. Failure to initial price changes may preclude an award from being made to a bidder.

**1.4.9 Causes for Rejection**

In addition to the reasons for rejection of bid proposals mentioned throughout this RFP, proposals shall be rejected for any or all of the following reasons:

a. The bidder is not authorized to do business in the State of New Jersey;

b. The proposal is not responsive to the RFP;

c. The Department has determined there is an actual or perceived conflict of interest;

d. Bidder has failed to include any required information with the submittal;

e. Bidder has failed to disclose a potential conflict of interest;

f. The Department has determined there are false or misleading statements in the submittal;

g. Bidder has not provided a valid New Jersey Business Registration Certificate.

**2.0 DEFINITIONS**

The following definitions shall be part of any agreement executed as a result of this RFP:

1. “Department” or “the State” shall mean the State of New Jersey, Department of Environmental Protection.
2. “Island Beach State Park” or “Park” shall mean the State Park located in the Borough of Berkeley, Ocean County, New Jersey.
3. “Events” shall mean the serving of food and drink at events wherein admittance is by invitation or ticket and includes, but is not limited to, events such as wedding receptions, bar/bat mitzvahs, retirement parties, holiday parties, non-profit fundraisers, for-profit marketing events, conferences, and other such events where private individuals or businesses procure such services from a vendor.
4. “Food and food services” shall mean the preparation and service of food and drink at OBA1 and OBA2. “Food and food services” shall also mean the preparation and service of food and drink at various locations throughout Island Beach State Park as agreed to by the Park Superintendent and may include the preparation and/or service of food and drink from food trucks parked at location throughout the Park as agreed to by the Superintendent.
5. “Operation Agreement” shall mean the written agreement resulting from this Request for Proposal and executed by the New Jersey Department of Environmental Protection and the winning bidder.
6. “Operator” shall mean the winning bidder to this Request for Proposal that enters into an Operation Agreement with the New Jersey Department of Environmental Protection.
7. “Bidder” shall mean an organization that submits a proposal in response to this Request for Proposal.
8. “Trash” shall mean any and all garbage, rubbish, refuse and other solid waste materials.
9. “Improvements” shall mean any renovations, changes, alterations, modifications, retro-fittings, replacements, upgrades, additions, out-fittings, and the like, including any and all woodwork, fixtures, hardware, wiring, pipes, and appurtenances that are a part of the improvements, but shall not mean personal property. Improvements shall also mean the re-building of any building due to damage to the building or the building of any new structure.
10. “Personal property” shall mean food trucks, equipment, tables, chairs, linens, china, glassware, silverware, artwork, and any other personal property necessary for the maintenance, management and operation of OBA1 and OBA2 in accordance with this RFP and the Operation Agreement, placed or used in the Park by Operator that are not attached to and/or physically incorporated into the Park or OBA1 or OBA2.
11. “Routine maintenance and repairs” shall mean those planned work activities that reoccur on a periodic cycle to sustain the useful life of an item and those work activities undertaken to restore damaged or worn out items to a fully functioning operating condition.
12. “Meeting” shall mean the Mandatory Pre-Bid Meeting and Site Visit.
13. “Division” shall mean the Division of Parks and Forestry.
14. “Office” shall mean the Office of Leases and Concessions.
15. “Acting Administrator” shall mean the Acting Administrator of the Office of Leases and Concessions.
16. “Commissioner” shall mean the Commissioner of the New Jersey Department of Environmental Protection.
17. “Evaluation Committee” shall mean a committee established by the Department to review and evaluate proposals submitted in response to this Request for Proposal and to recommend a proposal award.
18. “Request for Proposal (RFP)” shall refer to this document, which establishes the bidding requirement and solicits proposals to meet the needs of the Department for operation of the OBA1 and OBA2 kitchens and the providing of food and food services and events at Island Beach State Park as identified herein.

**3.0 SCOPE OF WORK**

The Department seeks to enter into a ten-year Operation Agreement, with one ten-year renewal term for a maximum term of twenty years, with an organization that will perform the services set forth in this RFP and the Operation Agreement, which has been attached to this RFP as Exhibit B. Bidders should refer to both this RFP and the Operation Agreement in preparation of submitting a proposal to gain a full understanding of the services required to be performed thereunder.

In exchange for entering and performing under the Operation Agreement, the Operator shall pay the Department a fixed annual rent of $75,000, which will be adjusted up by three percent (3%) annually, plus a percentage of at least five percent (5%) of the annual gross receipts as proposed by Bidder.

**4.0 PROPOSAL PREPARATION & SUBMISSION**

**4.1 General Information**

The bidder must strictly follow the instructions contained in this RFP in preparing and submitting its proposal. The bidder is advised to thoroughly read and follow all instructions.

The information required for submission in response to this RFP has been determined to be essential in the proposal evaluation and bidding award process. Any qualifying statements made by the bidder as to the RFP’s requirements may result in a determination that the bidder’s proposal is materially non-responsive. Each bidder is given wide latitude in the degree of detail it elects to offer or the extent to which plans, processes, and procedures are revealed. However, each bidder is cautioned that insufficient detail may result in a determination that the proposal is materially non-responsive or, alternatively, may result in a low technical score being given to the proposal.

**4.2 Proposal Delivery and Identification**

In order to be considered, a proposal responding to this RFP must arrive at the Office no later than **5:00 p.m. on** **Thursday, March 19, 2015**. All bidders submitting proposals are advised to allow adequate delivery time to ensure punctual delivery of proposals by the date and time set forth herein. Late proposals shall be ineligible for consideration. The exterior of all proposal packages must be labeled with “Island Beach Food”, the Bid Due Date, and the Bidder’s Name.

**4.3 Number of Proposal Copies**

Each bidder must submit one (1) complete original proposal that clearly has been marked as the “ORIGINAL” proposal. Each bidder also must submit four (4) full, complete, and exact copies of the original. The copies are necessary in the evaluation of each proposal. Bidders failing to provide the requisite number of copies shall be charged the cost incurred by the Department to produce the necessary number of copies. It is suggested that the bidder make and retain a copy of its proposal for its own records.

**4.4 Proposal Content**

The proposal should be submitted in one (1) volume that is divided into six (6) parts as follows:

**4.4.1 Forms (Part 1)**

* + - 1. **Affirmative Action Employee Information Report**

The bidder must complete the attached Affirmative Action Employee Information Report (Exhibit C), or alternatively, must supply either (1) a New Jersey Affirmative Action Certificate or (2) evidence that the bidder is operating under a federally approved or sanctioned affirmative action program. Failure to submit the Affirmative Action Employee Report or Certificate or other evidence with the bid proposal may be cause for rejection of the bid proposal.

**4.4.1.2 Business Registration Reporting; Stock Ownership**

Pursuant to N.J.S.A. 52:32-44, the State (including the Department of Environmental Protection) is prohibited from entering into a contract with an organization unless the contractor has provided a copy of its business registration certificate (or interim registration) as part of its bid submission. Failure to submit a copy of the Business Registration Certificate within the bid proposal may be cause for rejection of the bid proposal.

In addition, in the event the bidder is a corporation, partnership or sole proprietorship, pursuant to N.J.S.A. 52:25-24.2, the bidder must complete the attached Ownership Disclosure Form found at Exhibit D. Failure to submit a Ownership Disclosure Form with the bid proposal may be cause for rejection of the bid proposal.

**4.4.1.3 Pay to Play**

Pursuant to N.J.S.A. 19:44A-20.13, et seq. (L.2005, c.51) and specifically N.J.S.A. 19:44A-20.21, and Executive Order No. 117 (2008) the successful bidder shall not be allowed to contract with the State if the bidder: (1) makes or solicits a contribution in violation of P.L.2005, c.51; (2) knowingly conceals or misrepresents a contribution given or received; (3) makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (4) makes or solicits any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or to any State or county party committee; (5) engages or employs a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the bidder itself, would subject the bidder to the restrictions of P.L.2005, c.51; (6) funds contributions made by third parties, including consultants, attorneys, family members, and employees; (7) engages in any exchange of contributions to circumvent the intent of P.L2005, c.51; or (8) directly or indirectly through or by any other person or means, does any act which would subject the bidder to the restrictions of P.L.2005, c.51.  Further, where the bidder is a business entity, as defined by N.J.S.A. 19:44A-20.17, and the value of the Operation Agreement exceeds $17,500, the bidder shall submit with the Operation Agreement a “Certification and Disclosure of Political Contributions Form”, certifying that the bidder has not made any contributions prohibited by P.L.2005, c.51 and reporting all contributions the bidder made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7, and the “Ownership Disclosure Form”.  It is the successful bidder’s continuing obligation to report any contributions it makes during the term of the Operation Agreement. Additionally, unless the Operation Agreement is required by law to be publicly advertised for bids, if the bidder is a for-profit business entity, as defined by N.J.S.A. 19:44A-20.26 and the value of the Operation Agreement exceeds $17,500, the bidder shall submit with the Operation Agreement a “Vendor Certification and Political Contribution Disclosure Form” listing its political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L.1973, c.83 (C.19:44A-1 et al.) and that were made by the bidder during the preceding 12-month period, along with the date and amount of each contribution and the name of the recipient of each contribution. All bidders must complete and submit with their bid proposals the following enclosed forms, copies of which are attached and incorporated by reference as Exhibit E, in accordance with their instructions: (1) Ownership Disclosure Form; (2) Contractor Certification and Disclosure of Political Contributions Form (P.L. 2005, c. 51); and (3) Vendor Certification and Political Contribution Disclosure Form (P.L. 2005, c. 271). Please note that forms and instructions are also available at <http://www.state.nj.us/treasury/purchase/forms.shtml>.

Bidders further are advised of their responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, section 3) if the bidder receives contracts in excess of $50,000.00 from a public entity in a calendar year. It is the bidder’s responsibility to determine if filing is necessary. Failure to so file will preclude a proposal award and can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at (888) 313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us/).

* + 1. Background Information (Part 2)

Each bidder shall submit written answers and provide information to the following inquiries:

i. How many years has your organization been in business under its present business name?

ii. Under what other or former names has your organization operated?

iii. If your organization is a corporation, provide the following information: date of incorporation; State of incorporation; president’s name; vice president’s name; secretary’s name; treasurer’s name; corporate agent for service, and current status of the corporation.

iv. If the organization is a partnership, provide the following information: date of organization; type of partnership; and name(s) of general partner(s).

v. If your organization is individually owned, provide the following information: date organization established; and name of owner.

vi. Has your organization ever failed to complete any contract awarded to it?

vii. Within the past five (5) years, has any officer or principal of your organization ever served as an officer or principal of another organization when it failed to complete a contract?

viii. Are there any judgments, claims, arbitration proceedings, or lawsuits pending or outstanding against your organization or its officers or principals?

ix. Has your organization filed any lawsuits or requested arbitration with regard to any contracts within the last five (5) years?

x. Has any owner made a claim against you, which has resulted in arbitration or litigation with the past five (5) years?

xi. Has your organization or any of its officers, principals or owners ever been convicted of a crime, or are they presently the target of any criminal or administrative investigation?

xii. Has your organization or any of its officers, principals, or owners ever been disqualified, suspended, or debarred from a contract with any Federal, State, or local government entity?

xiii. Does your organization or any of its officers, principals or owners currently possess a liquor license issued by the New Jersey Division of Alcoholic Beverage Control?

xiv. Has your organization or any of its officers, principals, or owners ever applied to and been unable to obtain a liquor license issued by the New Jersey Division of Alcoholic Beverage Control?

xv. Has your organization or any of its officers, principals or owners ever possessed a liquor license issued by the New Jersey Division of Alcoholic Beverage Control and has had the license revoked?

If the answer to any questions “iv” through “xv” is yes, please provide details including the disposition of any matter set forth therein.

Each bidder also shall describe in detail its experience and expertise in providing food and food services and events, including the following:

1. A description of the bidder’s experience as a provider of food and food services and events;

ii. A list of any other qualifications, awards or experience as a provider of food and food services and events; and

iii. The beginning and ending dates of each management contract or Operation associated with each food service and/or event facility listed in “i” above.

* + 1. **Technical Proposal (Part 3)**

In this Section, the bidder shall describe its plans and approach for fulfilling the requirements set forth in this RFP and the Operation Agreement. The RFP and the Operation Agreement fully describe the minimum services to be provided by the Operator. The bidder must present its understanding of the requirements of the RFP and Operation Agreement and its ability to fulfill said requirements successfully. However, the bidder should not be limited by the services described and is encouraged to expand upon, supplement, or add other service areas where the bidder has expertise that may benefit the State and maximize the use of OBA1 and OBA2 and the Park as described in this RFP. This section of the bidder’s proposal should contain at least the following information:

**4.4.3.1 Management Plan**

Each bidder shall submit a Management Plan containing a complete description of how the bidder intends to fulfill its obligations under the RFP and Operation Agreement, in narrative format. The Management Plan shall contain a complete description of how the bidder intends to implement each aspect of the requirements set forth in the RFP and Operation Agreement. The narrative should exemplify to the State that the bidder understands the objectives of the RFP and Operation Agreement, the nature of the services required, and the level of effort necessary to successfully execute the services under the RFP and Operation Agreement. The bidder’s narrative further should be designed to convince the Department that the bidder’s Management Plan is viable and can be successfully executed, and that the bidder’s general approach to undertaking the RFP and Operation Agreement and fulfilling the State’s goals is in accordance with the tasks and subtasks involved.

Mere reiteration of the requirements set forth in the RFP and Operation Agreement is strongly discouraged, in that such a narrative would not provide insight into the bidder’s ability to successfully perform under the RFP and Operation Agreement. In sum, the bidder’s response to this Section of the RFP should be designed to demonstrate that the bidder’s detailed plans and proposed approach to performing the requirements under the RFP and Operation Agreement are realistic, attainable, and appropriate and that the bidder’s proposal will lead to successful performance thereunder.

**4.4.3.2 Specific Plan Content**

The bidder’s Management Plan should identify and fully detail the following:

1. Description of the food and food services and events the bidder will provide;
2. Anticipated staffing and personnel structure;

iii. Plans for advertising and publicizing the new food and food services at OBA1 and OBA2, any events, and the location and hours of any food trucks/carts;

iv. Proposed hours of operation and months of operation;

v. Proposed budget including a schedule of proposed fees and prices;

vii. Proposed immediate improvements to any and all parts of OBA1 and/or OBA2;

vi. Description of security including crowd control measures and handling of emergencies and closures; and

1. Description of parking requirements for bidder’s company vehicles (if to be left

onsite overnight), vehicles to be parked, and reason for leaving vehicles onsite.

With respect to fee and price schedules, the Operator in its Plan shall establish all applicable fees and prices, which will be subject to the Department’s review and ultimate approval. Fees and prices should be, at a minimum, comparable to those charged by other food and food services providers and event providers in the area.

**4.4.3.3** **Mobilization and Implementation Plan**

The bidder must include as part of its proposal a mobilization and implementation plan, beginning with the date of notification of the proposal award. The mobilization and implementation plan should include the following elements:

i. A detailed timetable for the mobilization and implementation period. This timetable should be designed to demonstrate how the bidder plans to be operational and by what date.

ii. The bidder should submit a plan for the purchase and distribution of equipment, inventory, supplies, materials, etc. that will be required to fully implement the Operation Agreement on the required start date.

iii. The bidder also should submit a plan for the use of sub-operators, if any, with respect to implementing the Operation Agreement. Emphasis should be placed on how any sub-operator identified will be involved in the mobilization and implementation plan.

**4.4.3.4 Potential Problems**

The bidder should set forth a summary of any and all problems anticipated during the term of the Operation Agreement. For each problem identified, the bidder should provide its proposed solution.

**4.4.4 Organizational Support and Experience (Part 4)**

The bidder should include information relating to its organization, personnel, and experience, including but not limited to references, together with contact names and telephone numbers, evidencing the bidder’s qualifications and capabilities to perform the services required by this RFP and Operation Agreement.

**4.4.4.1 Location**

The bidder should include the name(s) of key personnel, location of the office, and telephone number of the office that will be responsible for the project.

**4.4.4.2 Resumes**

Detailed resumes should be submitted for all management, supervisory, and key personnel who will be acting under the Operation Agreement. Resumes should be structured to emphasize the relevant qualifications and experience of these individuals.

In the event the bidder must hire or otherwise engage management, supervisory, and/or key personnel if awarded the proposal, the bidder should include a recruitment plan for such personnel. Said recruitment plan should demonstrate that the bidder will be able to initiate and complete the project within the time frame required by this RFP.

**4.4.4.3 Organization Chart (Complete)**

The bidder should include an organization chart depicting its entire organizational structure. This chart should show the relationship of the individuals performing under the Operation Agreement to the bidder’s overall organizational structure.

**4.4.4.4 Sub-Operator(s)**

The Operator may not enter into any sub-operator agreements with outside entities for the operation of food and food services under this RFP and Operation Agreement without prior notification to the Department in writing. All such sub-operator agreements require prior Departmental approval.

**4.4.4.5 Experience of Bidder on Projects of Similar Size and Scope**

As evidence of the bidder’s ability to complete the services set forth in the RFP and Operation Agreement, the bidder should provide a comprehensive listing of food and food services and event projects similar in size and scope that it successfully has held in the past five (5) years. A description of all such projects should be included and should demonstrate how such projects relate to the bidder’s ability to complete the services required under the Operation Agreement. For each such project, the bidder should provide the name and telephone number of a contact person.

Specifically, the bidder should describe its expertise in providing food and food services and events including the following:

1. a description of all food and food services and events it has provided or been involved with, including size, type of event, and location for each event;
2. a description of all facilities the bidder has operated or managed; and
3. the beginning and ending date of each ownership, operating agreement or Operation associated with food and food services and events listed in “i” and “ii” above.

**4.4.4.6 Financial Viability of the Bidder**

The bidder shall provide proof of its financial capacity and capabilities to undertake and successfully carry out its responsibilities under the Operation Agreement. To satisfy this requirement, the bidder shall submit the following with its bid proposal:

1. The name and address of the bidder’s bank, chief banking representative handling the bidder’s account, and the bidder’s federal employer information number (FEIN);

ii. Certified financial statements from an independent CPA, including applicable notes, reflecting the bidder’s assets, liabilities, net worth, revenues and receipts, expenses, profit or loss, and cash flow for the most recent calendar year or the bidder’s most recent fiscal year; or

iii. If a certified financial statement is not available, then either a reviewed or compiled statement from an independent accountant setting forth the same information shall be provided.

**4.4.5 Monetary Proposal (Part 5)**

The bidder must submit a monetary proposal. Failure to submit a monetary proposal shall result in the bidder’s proposal being considered materially non-responsive. Each bidder must hold its price(s) firm through completion of the proposal award process.

Each bidder shall submit, as part of its monetary bid, a percentage of the annual gross receipts of at least five percent (5%) that will be paid to the Department (e.g. if the successful bidder proposes a percentage of five percent (5%), the successful bidder shall be required to remit five percent of all gross receipts to the Department). Bidders are encouraged to propose a greater percentage; however, the bids of bidders that propose less than five percent shall be thrown out.

For purposes of this RFP and the Operation Agreement, total gross receipts shall be defined to include all sales at the gross selling price of food, alcoholic and non-alcoholic beverages, and items of every character sold in, upon, or through any part of the Park by Operator or any sub-operator(s), including, but not limited to, all revenues and sales related to the operation of food and food services and events and gross charges for all services to customers or patrons, performed by Operator or any sub-operator(s), in, upon, or through any part of the Park, and shall include sales and charges for cash and credit regardless of whether or not the same is collected or uncollected, less only any New Jersey sales taxes collected by Operator and remitted to New Jersey taxing authorities with respect to each Term Year of the Operation Agreement.

**4.4.6 Changes to Terms and Conditions (Part 6)**

A bidder may propose changes or modifications or take exception to any of the State's terms and conditions. If a bidder does so, the bidder must state bidder’s change, modification or exception specifically in writing in the bid proposal. Any proposed change, modification or exception in the State's terms and conditions by a bidder will be a factor in the determination of an award of a contractor purchase agreement. Bidders must be aware, however, that there are certain terms and conditions that are required by law (e.g., Pay to Play, Affirmative Action, Business Registration, Prevailing Wage), and are, therefore, a mandatory component of this RFP and the Operation Agreement.

**5.0 OPERATION AGREEMENT**

**5.1 Precedence of Agreement Terms and Conditions**

The Operation Agreement ultimately shall consist of this RFP, any addendum to the RFP, the winning bidder’s proposal, any best and final offers, the Department’s Notice of Acceptance, the executed Operation Agreement, and all exhibits to the Operation Agreement.

In the event of a conflict between the provisions of this RFP and any addendum to the RFP, the addendum shall govern. In the event the bidder's terms and conditions conflict with the State's, the State's terms and conditions will prevail, unless the bidder is notified in writing of the State's acceptance of the bidder's terms and conditions.

**5.2 Agreement Term and Extension Option**

The term of the Operation Agreement shall be for a period of ten (10) years, unless earlier terminated pursuant to the terms of the Operation Agreement. The anticipated Effective Date will be provided in the Operation Agreement. If delays in the selection process result in an adjustment of the anticipated Effective Date, the winning bidder shall agree to accept an agreement for the full term of same. Operator may request renewal for one additional ten-year term, for up to twenty (20) years. The Department has, in the Department’s sole discretion, the right to approve the request and allow the renewal. The Department reserves the right to disapprove the renewal if it determines in the Department’s sole discretion that Operator has not satisfactorily complied with the terms, covenants, or conditions of the Operation Agreement; Operator has not received financing for and completed improvements during the Initial Term; the determination that the continuation of the Operation Agreement is not consistent with reasonably anticipated plans for development or use of OBA1 and/or OBA2 by the Department; or renewal is not otherwise in the public interest.

If the Department permits the Operator to continue operating the Property after expiration of the Operation Agreement without having executed a new written agreement, the Operator shall be subject to all terms, covenants, and conditions contained in the expired Operation Agreement. Such continuation of operations by the Operator shall not constitute a renewal or extension of the expired Operation Agreement.

**5.3 Insurance**

The successful bidder shall, at its sole cost and expense, obtain and maintain at all times during the Term of this Operation Agreement, insurance of the types and in the amounts hereinafter provided:

a. Commercial General Liability $5,000,000.00

b. Worker’s Compensation

i. Bodily Injury each occurrence $1,000,000.00

ii. Disease each employee $1,000,000.00

iii. Disease aggregate Limit $1,000,000.00

c. Business Auto Liability $1,000,000.00

d. Such other insurance and in such amounts as may from time to time be reasonably required by the Department.

e. If issued a liquor license by the New Jersey Division of Alcohol Beverage Control, the successful bidder shall procure such insurance, with the Department as an additional insured, that shall include but not be limited to the sale and service of alcohol.

All insurance coverage shall be issued by an insurance company authorized and approved to do business in New Jersey and shall name the State of New Jersey as an additional insured.

The successful bidder shall provide the Department with a certificate of insurance evidencing that all insurance coverage has been obtained. Failure to provide a certificate of insurance by the execution of the Operation Agreement shall render the Operation Agreement null and void. The certificate of insurance shall provide for sixty (60) days’ notice, in writing, to the Department prior to any cancellations, expiration, or non-renewal during the term the insurance is required to be maintained. The successful bidder shall also provide the Department with valid certificates of renewal of the insurance upon the expiration of the policies so that the Department is continuously in possession of current documentation.

Any insurance protection shall in no way limit the successful bidder's indemnification obligations in this RFP and Operation Agreement.

Additional terms and conditions regarding insurance can be found in the Operation Agreement attached hereto as Exhibit B.

**5.4 Indemnification**

The successful bidder for itself, its successors, and assigns, assume all risks and liabilities arising out of bidder's possession, operation, maintenance, and improvement of the Operational Area and any other locations throughout the Park in which the successful bidder operates. The successful bidder covenants to defend, protect, indemnify, and save harmless the Department and release the Department and each of its officers, agents, employees, successors, and assignees from and against any and all such liabilities, losses, damages, costs, expenses (including reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of every nature arising from or claimed to arise, in whole or in part, in any manner out of, be occasioned by, or result from:

a. Any injury to, or the death of, any person in or on, or any damage to property which occurs in, on, or about the Operational Area and any other locations throughout the Park in which the successful bidder operates, or in any manner growing out of or connected with the use, nonuse, condition, or occupancy of the Operational Area and any other locations throughout the Park in which the successful bidder operates;

b. Violation of any agreement or condition of the Operation Agreement by the successful bidder, its agents, employees, contractors, invitees (express or implied), or anyone claiming by or through the successful bidder;

c. Violation by the successful bidder of any contracts, agreements, or restrictions of record concerning the Operational Area and any other locations throughout the Park in which the successful bidder operates or any federal, State, or local law, ordinance, or regulation affecting the Operational Area and any other locations throughout the Park in which the successful bidder operates and/or bidder’s possession, use and occupancy thereof; or

d. Any act, error or omission by the successful bidder, its agents, employees, contractors, invitees (express or implied), or anyone claiming by or through bidder in the performance of the Operation Agreement.

The successful bidder’s indemnification and liability is not limited by but is in addition to the insurance obligations.

Additional indemnification terms can be found in the attached Operation Agreement.

**5.5 Claims and Remedies**

**5.5.1 Claims**

The following shall govern claims made by the contractor regarding contract award recision, contract interpretation, contractor performance and/or suspension or termination.

Final decisions concerning all disputes relating to contract award recision, contract interpretation, contractor performance and/or contract reduction, suspension or termination are to be made by the Commissioner. The Commissioner’s final decision shall be deemed a final agency action reviewable by the Superior Court of New Jersey, Appellate Division.

All claims asserted against the Department by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. However, any claim against the Department relating to a final decision by the Commissioner regarding contract award recision, contract interpretation, contractor performance and/or contract reduction, suspension or termination shall not accrue, and the time period for performing any act required by N.J.S.A. 59:8-8 or 59:13-5 shall not commence, until a decision is rendered by the Superior Court of New Jersey, Appellate Division (or by the Supreme Court of New Jersey, if appealed) that such final decision by the Commissioner was improper.

**5.5.2 Remedies**

Nothing in the contract shall be construed to be a waiver by the Department of any warranty, expressed or implied, or any remedy at law or equity.

**5.6 Prevailing Wage Act**

The successful bidder agrees to comply with the New Jersey Prevailing Wage Act, P.L. 1963, Chapter 150 as codified in N.J.S.A. 34:11-56.25, et seq. Bidder also agrees to comply with 42 U.S.C. § 9604 (g)(1). If any conflict exists between the New Jersey Prevailing Wage Law and § 9604 (g)(1), the bidder must comply with the federal requirements.

**5.7 Conflicts of Interest**

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of Environmental Protection or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.

b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52: 130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.

f. The provisions cited above in paragraphs a through e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

**5.8 MacBride Principles and Iranian Investments**

The successful bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom’s Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

In addition, the bidder must certify that neither the bidder nor any of the bidder’s parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury’s list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 (“Chapter 25 List”). The MacBride Principles Certification and Iranian Investment Activities Certification form can be found at Exhibit F.

**5.9 Americans with Disabilities Act; Anti-discrimination**

The successful bidder must comply with all provisions of the Americans with Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101, et seq.

The successful bidder shall not discriminate in employment and agrees to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. l0:5-1 et seq. and N.J.S.A. l0:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

**5.10 Applicable Law and Jurisdiction**

This RFP and the resulting Operation Agreement shall be governed by and interpreted in accordance with the Laws of the State of New Jersey and any legal actions filed shall be filed in the courts of the State of New Jersey.

**5.11 Sales and Use Tax**

The Operator and any subcontractor providing goods or performing services under the Operation Agreement, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the “Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at http://www.state.nj.us/treasury/revenue/busregcert.htm.

**6.0** **PROPOSAL EVALUATION & SELECTION PROCESS**

**6.1 Proposal Evaluation Committee**

Proposals will be reviewed and evaluated by a committee, which shall include participants from the Department’s Natural and Historic Resources Group.

**6.2** **Oral Presentation and/or Clarification of Proposal**

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its proposal. The Evaluation Committee also may require a bidder to submit written responses to questions regarding its proposal. The purpose of such communication with a bidder, either through an oral presentation or written letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its proposal. However, original proposals may not be supplemented, changed, or corrected in any way. No comments regarding other proposals are permitted. Further, bidders may not attend presentations made by other bidders.

It is within the discretion of the Evaluation Committee to require a bidder to make an oral presentation or to submit written responses to questions regarding its proposal. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a proposal. The Acting Administrator will be the sole point of contact regarding any request for an oral presentation or written clarification.

**6.3** **Evaluation Criteria**

The following evaluation criteria, not necessarily listed in order of significance, shall be used to evaluate proposals received in response to this RFP. The evaluation criteria categories may be used in developing more detailed evaluation criteria for the review process:

1. The bidder’s general approach and plans in meeting the requirements of this RFP;
2. The bidder’s detailed approach and plans to perform the services under the Operation Agreement;
3. The bidder’s documented experience in providing food and food services and in developing and administering events;
4. The qualifications and experience of the bidder’s personnel, with emphasis on documented experience;
5. The bidder’s overall ability to mobilize, undertake, and successfully perform in accordance with the Operation Agreement. This judgment will include but not be limited to the qualifications of the proposed personnel and the bidder’s Management Plan;
6. The bidder’s availability and commitment to effectuating the Operation Agreement;
7. The bidder’s financial viability and organizational history; and
8. The bidder’s monetary proposal.

**6.4 Selection Process**

The proposal shall be awarded with reasonable promptness and by written notice to the responsive bidder whose proposal, conforming to the invitation for proposals, is most advantageous to the State, price and other factors considered. Any or all proposals may be rejected if the Department determines that it is in the public interest to do so.

**6.5 Negotiation and Best and Final Offer (BAFO)**

After evaluating proposals, the Department may enter into negotiations with one bidder or multiple bidders. The primary purpose of negotiations is to maximize the State’s ability to obtain the best value based on the mandatory requirements, evaluation criteria, and price (rent). Multiple rounds of negotiations may be conducted with one bidder or multiple bidders. Negotiations will be structured by the Department to safeguard information and ensure that all bidders are treated fairly.

Similarly, the Department may invite one bidder or multiple bidders to submit a best and final offer (BAFO). Said invitation will establish the time and place for submission of the BAFO. Any BAFO that is not higher in price than the pricing offered in the bidder’s original proposal will be rejected as non-responsive and the Department will revert to consideration and evaluation of the bidder's original pricing.

If required, after review of the BAFO(s), clarification may be sought from the bidder(s). The Department may conduct more than one round of negotiation and/or BAFO in order to attain the best value for the State.

**Negotiations will be conducted only in those circumstances where they are deemed by the Department to be in the State’s best interests and to maximize the State’s ability to get the best value. Therefore, the bidder is advised to submit its best technical and price proposal in response to this RFP since the State may, after evaluation, make a contract award based on the content of the initial submission, without further negotiation and/or BAFO with any bidder.**

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or price proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

**NOTE: If the Division contemplates negotiation, proposal prices will not be publicly read**

**at the proposal submission opening. Only the name and address of each bidder will be**

**publicly announced at the proposal submission opening.**

**7.0 EXHIBITS**

A. Map of Island Beach State Park

B. Operation Agreement (proposed)

C. Maps of Operational Area

D. List of State Equipment in OBA1 and OBA2

E. Affirmative Action Employee Information Report

F. N.J.S.A. 52:25-24.2 Ownership Disclosure Form

G. Pay to Play Forms: (1) Ownership Disclosure Form; (2) Contractor Certification and Disclosure of Political Contributions Form (P.L. 2005, c. 51); and (3) Instructions -- Contractor Certification and Disclosure of Political Contributions (P.L. 2005, c. 51); and (4) Vendor Certification and Disclosure of Political Contribution Disclosure Form (P.L. 2005, c. 271)

H. MacBride Principles Certification and Iranian Investment Activities Form