

**NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS**

REQUEST FOR PROPOSALS (RFP)

The Department is seeking proposals for projects that will enhance the competitiveness of specialty crops in New York State.

2013 SPECIALTY CROP BLOCK GRANT PROGRAM

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TIMELINE

Release Request for Proposals	April 11,2013
Deadline for questions	April 25, 2013
Final questions & answers posted	May 2, 2013
Deadline for proposals	May 9, 2013
Announce and award grants	August/September 2013

PROPOSAL SUBMISSION REQUIREMENTS

Proposals should conform to the format and content specified in section 4 of this RFP. Applicants should submit an original and four (4) copies of each proposal plus a completed and signed Checklist for Proposal Eligibility and Completeness. Envelopes should be clearly marked: **“RFP – 2013 Specialty Crop Block Grant Program.”**

Proposals must be submitted to:

Lucy Roberson, Director
Division of Fiscal Management
NYS Department of Agriculture and Markets
10B Airline Drive
Albany, New York 12235

Applicants, not delivery services or other intermediaries are responsible for the timely submission of proposals. Faxed and e-mailed proposals will not be accepted. Proposals delivered after the scheduled date and time will be returned to applicants and not considered for funding.

Proposals *MUST BE RECEIVED* by the Department’s Division of Fiscal Management by 4:30 p.m. EDT on May 9, 2013

QUESTIONS CONCERNING THE RFP

All questions about requirements contained in this RFP **must be submitted in writing** (fax or e-mail will be accepted) to:

Sue Santamarina
NYS Department of Agriculture and Markets
10B Airline Drive
Albany, NY 12235
Fax: (518) 457- 2716
E-mail: nyspecialtycrops@agriculture.ny.gov

All questions must be submitted to Sue Santamarina by April 25, 2013. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the program which are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will be posted in the “Funding Opportunities” section of the Department’s website, www.agriculture.ny.gov along with the electronic version of this RFP. Questions and responses may be posted as questions are received with the final list posted by Thursday, May 2, 2013. Applicants are urged to check the Department’s website frequently for notices of any changes, additions or deletions to the RFP. If you are unable to access the website, please contact Sue Santamarina to arrange for alternate delivery. All questions and answers shall become a formal addendum to the RFP.

1. GENERAL PROGRAM INFORMATION

1.1 Program Description

The Department is seeking proposals for projects that will enhance the competitiveness of specialty crops in New York State. Funding for this RFP will be provided pursuant to the USDA Specialty Crop Block Grant Program – Farm Bill (SCBGP-FB), which is authorized under the Federal Specialty Crops Competitiveness Act of 2004, amended under section 10109 of the Food, Conservation, and Energy Act of 2008 (Farm Bill). The SCBGP-FB provides funding to State departments of agriculture solely to enhance the competitiveness of specialty crops. The Department is required to submit an application to USDA’s Agriculture Marketing Service to receive funding, which is based on the proportion of the value of the State’s specialty crop production in relation to the national value of specialty crop production. Projects selected pursuant to this RFP will be included in the Department’s application to the USDA.

1.2 Program Purpose

New York’s specialty crop agricultural and food systems industry is a valuable component of our State’s economy, the environment, residents’ health and quality of life. The purpose of New York’s Specialty Crop Block Grant Program is to enhance the competitiveness of New York specialty crops by creating partnerships; fostering innovation; increasing efficiencies and reducing costs; and enhancing the long term viability of New York’s specialty crop agricultural businesses and food systems.

1.3 Definition of Specialty Crops

For the purpose of this RFP, “specialty crops” means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture). A detailed list of commonly recognized specialty crops is provided in Appendix B. Applicants should visit www.ams.usda.gov/scbgrp for a list of specialty crops that is regularly updated.

1.4 Available Funding

It is expected there will be approximately \$1,000,000 available through this RFP.

2. ELIGIBILITY

2.1 Applicant Eligibility

Eligible applicants include:

- Not-for-profit organizations (NFP)
- Not-for-profit educational institutions
- State, local and Indian tribal governments

NOTE: Grant funds will not be awarded for projects that solely benefit a particular commercial product or provide a profit to a single organization, institution or individual. Single organizations, institutions and individuals are encouraged to participate as project partners.

Projects should have general applicability and statewide significance to the specialty crop industry.

The Department strongly encourages collaborative efforts between NFPs, educational institutions, and government applicants and private for profits in order to achieve the goals and objectives of this program. **For profits are not eligible; however, for profits may partner with not-for-profits provided that the NFP is the lead applicant.** Applicants must include commitment letters from any project partners.

2.2 Project Eligibility and Priorities

The Department is soliciting proposals that *solely enhance the competitiveness of specialty crops* and benefit the greatest number of beneficiaries in the below priority areas. These priority areas were identified by an Advisory Committee composed of specialty crop organizations, associations and other industry stakeholders.

Research and grower education

Examples of research and grower education projects include, but are not limited to:

- research and/or extension that address a key conventional or organic production problem or need specific to New York State;
- prioritizing and addressing native and exotic pest and disease threats through development of pest risk assessments;
- supporting plant breeding for the development of specialty crops resistant to exotic and native pests;
- applied research and development to extend the growing season of New York specialty crops through new technologies, improved management practices or other innovative production strategies.
- developing new seed varieties and specialty crops with optimal performance under New York State conditions;
- developing and increasing the utilization of Integrated Pest Management strategies and programs;
- research and/or extension leading to the production and manufacture of safe, high quality fruit, vegetable and other fresh and/or value-added specialty crop products;
- education or implementation of Hazard Analysis Critical Control Point (HACCP) systems or other preventative food safety controls;

Food Safety

Recent outbreaks of food borne illness linked to specialty crops have intensified both growers' and consumers' concerns about food safety. Growers and handlers are embracing voluntary Good Agricultural Practices (GAP) and Good Handling Practices (GHP) standards to minimize the threats of microbial contamination in the production of fresh fruits and vegetables. At the same time, processors of specialty crops take many precautions and follow industry and government standards through Good Manufacturing Processes (GMP). Maintaining food safety is paramount to the well-being of New Yorkers and is critical to maintaining consumer confidence of New York's specialty crop products.

Examples of food safety focused projects include but are not limited to:

- research and extension leading to the production and manufacture of safe, high quality fruit, vegetable and other fresh and/or value-added specialty crop products;
- education, promotion or implementation of Hazard Analysis Critical Control Point (HACCP) systems or other preventative food safety controls;
- assisting producers and processors in developing individual food safety plans and meeting food safety standards.
- consumer education about proper handling and preparation of raw specialty crop commodities that are not "ready to eat" (i.e. thorough washing, peeling, etc.)

Marketing and Promotion

New York State produces a wide range of specialty crops that rank highly in the nation in terms of production and economic value. The State's climate, fertile soils, abundant freshwater resources and innovative farmers offer New York the opportunity to produce and market a variety of high quality products locally, regionally and nationally. The seasonality of the State's production; however, can at times be a competitive disadvantage as New York producers compete with other areas of the country or the world that can supply fresh produce year-round. In this funding category, the Department will consider projects that increase the long-term sales and competitiveness of New York's specialty crop producers. Examples of marketing and promotion focused projects include but are not limited to:

- increasing consumer awareness of the availability of fresh, frozen and processed New York State specialty crops;

- promoting preference for and helping consumers identify New York State specialty crop products in retail stores, restaurants and institutional outlets;
- supporting state-wide and regional cooperative marketing efforts, demonstrations, advertising and cross-promotions;
- increasing customers and sales of New York specialty crops at Farmers' Markets, Community Supported Agriculture (CSA) operations, produce auctions, roadside stands and other community and direct marketing outlets.

2.3 Project Duration

Projects must be completed within two years of the award date. The Department expects to announce awards in August/September 2013.

3. PROJECT COSTS

3.1 Eligible Costs

- Personnel
- Fringe Benefits
- Travel
- Special purpose equipment
- Supplies
- Contractual
- Other (see below)

All costs must be directly associated with project activities that solely enhance the competitiveness of specialty crops. The use of grant funds awarded pursuant to this RFP is subject to the Federal Cost Principles applicable to the particular organization/entity that is receiving the funds. Applicants should refer to the applicable Cost Principles when developing their project activities and budget. To locate the principles applied in establishing the allowability or unallowability of specific items of cost, refer to the List of Selected Items of Cost Contained in OMB Cost Principles Regulations at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5080687>.

3.2 Ineligible Costs

Grant funds may NOT be used for the following:

- Activities that support non-specialty crops (as defined by USDA). A list of non-specialty crops is provided in Appendix C. Applicants should visit www.ams.usda.gov/AMSV1.0/scbqp for a list of non-specialty (ineligible) commodities that is regularly updated.
- Indirect costs
- Political activities;
- Lobbying activities;
- Capital expenditures for *general purpose* equipment, buildings and land.

General purpose equipment means equipment that is not limited to research, scientific or other technical activities. Examples include office equipment and furnishings, motor vehicles, etc.

4. PROPOSAL FORMAT

4.1 Application Form Instructions

Submit proposals using the 2013 *New York Specialty Crop Block Grant Application Template*.

General Instructions for Completing the Application Form

1. Provide all the information in the requested format. Failure to do so may result in a reduced rating or disqualification of a proposal.
2. Part B – Project Details must be **no more than 4 pages**, not including letters of support. The acceptable font is Times New Roman, 12 pitch. All margins must be 1 inch.
3. Part C – Budget Information must be **no more than 2 pages**. Use the format provided.
4. Type all information if possible. Handwritten applications should be clearly legible.
5. Identify all pages of the Application in numerical order.
6. Staple each copy of the proposal in the upper left hand corner of the Application. *Do not use binders, folders, report covers, etc.*
7. Attach all required attachments, drawings, photos, support letters, etc. at the end of the Application Form.

The Department and State Comptroller's Office reserve the right to audit the applicant's books and records relating to the performance of the project during and up to six years after the completion of the project.

4.2 Checklist for Proposal Eligibility and Completeness *(See Application Template)*

Complete and sign the checklist and submit it with your application to ensure that your proposal is eligible to be considered for funding.

5. FUNDING CRITERIA

The Department's intent is to fund projects that produce the highest degree of public benefit and measurable outcomes to New York specialty crop producers in relation to each dollar spent. Proposals will be evaluated based on the following criteria:

Project Purpose (Maximum of 20 points) – Measures how well the applicant addresses the specific issue, problem, need or opportunity that the project seeks to address. The purpose must indicate why the project is timely, the specific objectives of the project and the expected effectiveness of the project of enhancing the competitiveness of New York Specialty Crops.

Potential Impact (Maximum of 20 points) – Evaluates the identification of expected beneficiaries and description of how they will be impacted. The potential impact will take into consideration the number of beneficiaries impacted in relation to the number of dollars spent. Also evaluated is the potential economic impact of the project and does the project solve a problem in an appropriate or innovative way.

Measurable Outcomes (Maximum of 20 points) – Evaluates whether the project has at least one distinct, quantifiable and measurable outcome that directly supports the project's purpose and performance monitoring frequency and sufficiency. Consideration will also be given to how data gathered will be used to improve the project.

Work Plan (Maximum of 20 points) – Evaluates the degree to which the activities necessary to accomplish the project's objectives are clearly and adequately identified. Also considered is whether the project and timeline are feasible. The work plan must be detailed enough to understand how activities lead to the project outcome.

Budget (Maximum of 20 points) – Consideration will be given to the reasonableness of the amount requested and budgeted for the project. The budget must be complete and provide sufficient detail, be reasonable and appropriate for the number of producers that would benefit the project and budget numbers must adequately tie to the project purpose and work plan.

BONUS: Project Partners and Industry Support (Maximum of 10 points) – Considers whether or not the applicant has collaborative project partners and/or support from the industry. Points will be given for providing partner commitment letters that specify how the partners will work toward the goals and outcome measures of the project. Points will be given for support letters from industry organizations or leaders that are representative of the industry, possess expertise in appropriate subject matter(s) and whether or not they will be involved in the project. Applicants must include commitment letters from any project partners.

6. NYS OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION REQUIREMENTS

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

7. NYS ENVIRONMENTAL QUALITY REVIEW ACT REQUIREMENTS

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

8. AWARD PROCESS

The Department will first screen applications to ensure that they meet the eligibility requirements. All proposals deemed eligible by the Department will be reviewed by the Specialty Crop Advisory Committee for technical comments. Proposals and technical comments will then be evaluated by a Department panel according to the selection criteria and ranked in order from highest to lowest. Proposals will be segregated according to their identified funding category in rank order from highest to lowest. Those proposals receiving the highest numerical scores above the threshold score (68), continuing until available funds are exhausted within each of the two funding categories, or until all proposals are funded, whichever occurs first, will be included in the Department's application to the USDA for SCBGP-FB funds.

Awards will be a minimum of \$30,000 up to a maximum of \$100,000. Awards will be made upon approval of the Department's application by the USDA.

The Department will send written notice to each applicant of its funding decisions. A contract defining all terms and conditions and responsibilities of the successful applicant shall be developed by the Department subsequent to the awarding of funds. The contract will incorporate the project description, plan of work form, and a budget approved by the Department, among its provisions. A copy of the standard clauses that set forth the general terms and conditions required in all contracts awarded by the Department under this program is attached to this RFP as Attachment 1.

Upon agreement by the contractor and the Department to the provisions of the contract, it will be submitted for approval to the Attorney General of the State of New York and the Comptroller of the State of New York. Grant funds will be disbursed on a reimbursement basis only after the contract is fully executed, *i.e.*, has been signed by all involved parties.

Awarded projects will be eligible to receive grant funds on a quarterly reimbursement basis. Advance payments will be made to not-for profit organizations only.

9. DEBRIEFING

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful bidder has the right to a debriefing regarding the reasons its application was not selected for award. Upon request, the Department will provide a debriefing to any unsuccessful applicant as to the reasons that the proposal submitted was not selected for an award. To request a review of an unsuccessful application contact Ms. Judy Giovannetti, Division of Fiscal Management, by phone at: (518) 457-6172 or via e-mail at judy.giovannetti@agriculture.ny.gov A review should be requested by an unsuccessful applicant within thirty (30) days of the date of the notice that its proposal was not selected for an award.

10. REPORTING REQUIREMENTS

The Department of Agriculture and Markets will monitor contract performance. Annual progress reports that summarize the work completed on the project will be required on a date to be determined by the Department. All reports must conform to the Annual Performance Report Requirements set forth in Attachment 2. The Department reserves the right to modify reporting requirements during the course of the project. A final report will be required within forty-five (45) days following completion of the project. The final report must conform to the Final Performance Report Requirements set forth in Attachment 3. The final report will be included in the Department's final report that is submitted to USDA, which will be posted on the SCBG-FB website. The Department reserves the right to conduct a follow-up survey of funded projects in order to determine long-term impacts.

11. LIABILITY

The Department shall not be held liable for any costs incurred by any party for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a contract.

12. WORKERS' COMPENSATION AND DISABILITY INSURANCE REQUIREMENTS

New York State Workers' Compensation Law sections 57 and 220 require that the Department not enter into a contract unless proof of Workers' Compensation and Disability Insurance in a form satisfactory to the New York State Workers' Compensation Board has been secured.

Recipients of grants under this RFP will be required to produce proof of Workers' Compensation and Disability Insurance in a form satisfactory to the New York State Workers' Compensation Board prior to the execution of the contract.

Please refer to the Workers' Compensation and Disability Insurance Requirements posted on the Department's website, www.agriculture.ny.gov under the heading of this RFP or visit the New York State Workers' Compensation Board website, www.wcb.ny.gov for more information. You may contact the Board's Bureau of Compliance with any questions related to workers' compensation or disability insurance at (866) 298-7830.

13. OTHER CONSIDERATIONS

The Department reserves the right to:

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

All proposals submitted in response to this RFP will become the property of the New York State Department of Agriculture and Markets.

14. FREEDOM OF INFORMATION

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

15. APPENDIX A -- *Standard Clauses for All State Contracts*

Appendix A, which is attached to this RFP as Attachment 4, contains standard clauses which are required in all State contracts. Appendix A will be a part of any contract awarded under the 2013 Specialty Crop Block Grant Program and successful applicants will be responsible for complying with the terms and conditions contained therein.

16. FEDERAL CONDITIONS

Funds for this program will be provided to the Department pursuant to an agreement with the United States Department of Agriculture, Agricultural Marketing Service. Successful applicants will be required to comply with all applicable Federal statutes, regulations and policy requirements. A list of applicable statutes, regulations and policy requirements as well as a summary of the potential impact of certain National Policy Requirements on certain grants can be found at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5086615>.

APPENDIX B

All Listed Eligible Crops

Fruits and Tree Nuts

Almond	Grape (including raisin)
Apple	Guava
Apricot	Kiwi
Avocado	Litchi
Banana	Macadamia
Blackberry	Mango
Blueberry	Nectarine
Breadfruit	Olive
Cacao	Papaya
Cashew	Passion fruit
Citrus	Peach
Cherimoya	Pear
Cherry	Pecan
Chestnut (for nuts)	Persimmon
Coconut	Pineapple
Coffee	Pistachio
Cranberry	Plum (including prune)
Currant	Pomegranate
Date	Quince
Feijou	Raspberry
Fig	Strawberry
Filbert (hazelnut)	Suriname cherry
Gooseberry	Walnut

Vegetables

Artichoke	Mustard and other greens
Asparagus	Okra
Bean	Pea
Snap or green	Garden, English or edible pod
Lima	
Dry, edible	
Beet, table	Onion
Broccoli (including broccoli raab)	Opuntia
Brussels sprouts	Parsley
Cabbage (including Chinese)	Parsnip
Carrot	Pepper
Cauliflower	Potato
Celeriac	Pumpkin
Celery	Radish (all types)
Chive	Rhubarb
Collards (including kale)	Rutabaga
Cucumber	Salsify
Edamame	Spinach
Eggplant	Squash (summer and winter)
Endive	Sweet corn
Garlic	Sweet potato
Horseradish	Swiss chard
Kohlrabi	Taro
Leek	Tomato (including tomatillo)
Lettuce	Turnip
Melon (all types)	Watermelon
Mushroom (cultivated)	

Culinary Herbs and Spices

Ajwain	Clary	Malabathrum
Allspice	Cloves	Marjoram
Angelica	Comfrey	Mint (all types)
Anise	Common rue	Nutmeg
Annatto	Coriander	Oregano
Artemisia (all types)	Cress	Orris root
Asafetida	Cumin	Paprika
Basil (all types)	Curry	Parsley
Bay (cultivated)	Dill	Pepper
Bladder wrack	Fennel	Rocket (arugula)
Bolivian coriander	Fenugreek	Rosemary
Borage	Filé (gumbo, cultivated)	Rue
Calendula	Fingerroot	Saffron
Chamomile	French sorrel	Sage (all types)
Candle nut	Galangal	Savory (all types)
Caper	Ginger	Tarragon
Caraway	Hops	Thyme
Cardamom	Horehound	Turmeric
Cassia	Hyssop	Vanilla
Catnip	Lavender	Wasabi
Chervil	Lemon balm	Water cress
Chicory	Lemon thyme	
Cicely	Lovage	
Cilantro	Mace	
Cinnamon	Mahlab	

Medicinal Herbs

Artemisia	Marshmallow
Arum	Mullein
Astragalus	Passion flower
Boldo	Patchouli
Cananga	Pennyroyal
Comfrey	Pokeweed
Coneflower	St. John's wort
Fenugreek	Senna
Feverfew	Skullcap
Foxglove	Sonchus
Ginkgo biloba	Sorrel
Ginseng	Stevia
Goat's rue	Tansy
Goldenseal	Urtica
Gypsywort	Witch hazel
Horehound	Wood betony
Horsetail	Wormwood
Lavender	Yarrow
Liquorice	Yerba buena

Nursery, Floriculture, and Horticulture Crops

Honey	Tea Leaves
Turfgrass	Maple Syrup
Hops	

Annual Bedding Plants

Begonia	Coleus
Dahlia	Geranium
Impatiens	Marigold
Pansy	Petunia
Snapdragon	Vegetable Transplants

Potted Flowering Plants

African Violet	Azalea
Flowering Bulbs	Poinsettia

Potted Herbaceous Perennials

Astilbe	Columbine
Coreopsis	Daylily
Dianthus	Heuchera
Hosta	Ornamental Grasses
Peony	Phlox
Rudbeckia	Salvia
Vinca	

Cut Flowers

Carnation	Chrysanthemum
Delphinium	Gladiolus
Iris	Lily
Orchid	Rose
Tulip	

Cut Cultivated Greens

Asparagus Fern	Coniferous Evergreens
Eucalyptus	Leatherleaf Fern
Pittosporum	

Foliage Plants

Anthurium	Bromeliad
Cacti	Dieffenbachia
Dracaena	Fern
Ficus	Ivy
Palm	Philodendron
Spathiphyllum	

Christmas Trees

Balsam Fir	Blue Spruce
Douglas Fir	Fraser Fir
Noble Fir	Scots Pine
White Pine	

Deciduous Flowering Trees

Crabapple	Dogwood
Crepe Myrtle	Flowering Pear
Flowering Cherry	Flowering Plum
Hawthorn	Magnolia
Redbud	Service Berry

Broadleaf Evergreens

Azalea	Boxwood
Cotoneaster	Euonymus
Holly	Pieris
Rhododendron	Viburnum

Deciduous Shade Trees

Ash	Elm
Honey Locust	Linden
Maple	Oak
Poplar	Sweetgum
Sycamore	

Landscape Conifers

Aborvitae	Chamaecyparis
Hemlock	Juniper
Pine	Spruce
Yew	

Deciduous Shrubs

Barberry	Bubbleia
Hibiscus	Hydrangea
Rose	Spirea
Viburnum	Weigela

Last Modified
 Date: 02/23/2012

APPENDIX C

List of Ineligible Commodities (Non-Specialty Crops)

Alfalfa	Pod corn
Amylomaize	Primrose
Barley	Quinoa
Buckwheat	Rapeseed oil
Canola	Range grasses
Canola Oil	Rice
Clover	Rye
Cotton	Safflower meal
Cottonseed oil	Safflower oil
Dairy products	Shellfish (marine or freshwater)
Dent corn	Sorghum
Eggs	Soybean oil
Field corn	Soybeans
Fish (marine or freshwater)	Striped Maize
Flax	Sugar beets
Flaxseed	Sugarcane
Flint corn	Sunflower oil
Flower corn	Tobacco
Hay	Tofu
Livestock products	Triticale
Millet	Waxy corn
Mustard seed oil	Wheat
Oats	White corn
Peanut oil	Wild Rice
Peanuts	

**NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS
2013 SPECIALTY CROP BLOCK GRANT PROGRAM**

GENERAL CONTRACT TERMS AND CONDITIONS

Note: These are all the general terms and conditions that could apply to any Department contract. Some of these terms and conditions may or may not apply to your specific project, dependent on the scope of work, budget, etc.

GENERAL CONDITIONS FOR AGREEMENTS

NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

These general conditions apply to the administrative aspects of the agreement and reflect New York State's contract record keeping and payment procedures. These general conditions cannot be changed.

PAYMENT

In consideration of the services to be performed by the **Contractor** pursuant to this Agreement, the **Department** agrees to pay and the **Contractor** agrees to accept a sum not to exceed the period amount specified on the cover sheet of this agreement. All payments shall be in accordance with the budget contained in Appendix B for the applicable period. Payment under this Agreement is conditional upon the continued availability of funds.

If the amount of this Agreement exceeds \$50,000, payments cannot be made until the Agreement is approved by the Office of the State Comptroller (OSC). Expenditures cannot proceed the start date of the Agreement. If the Contractor makes expenditures subsequent to the Agreement start date, but prior to OSC approval, it does so at its own risk. In the event OSC does not approve the Agreement, the **Department** shall have no obligation to pay the **Contractor** for any such expenditure.

Any goods or services ordered by the **Contractor** prior to the start date of the Agreement must be received and paid for during the Agreement period in order for the cost of such goods and/or services to be reimbursed using funds from this Agreement. The **Department** will not reimburse the **Contractor** for the cost of goods and/or services received or paid for prior to the start date of the Agreement period. If OSC approval of the Agreement is required, and the **Contractor** orders any goods and/or services prior to OSC's approval of the Agreement, it does so at its own risk.

The **Contractor** shall submit all Claims for Payments and reports to the following address: NYS Department of Agriculture and Markets, Division of Fiscal Management, 10B Airline Drive, Albany, NY 12235. Claims and any reports will not be considered received by the **Department** and any interest which may be due the **Contractor** will not begin to accrue until they have been received by the Division of Fiscal Management.

The **Contractor** shall submit all Claims for Payment under this Agreement, together with supporting fiscal documentation and required reports within fifteen (15) business days after the end of each quarter. All obligations must be incurred prior to the end date of this Agreement. The final Claim shall be submitted within thirty (30) business days of the end of each annual contract period or the termination of this Agreement.

For purposes of interest determinations pursuant to Article XI-B of the State Finance Law, payments shall be due 45 days after the end of each quarter or 30 days after submission of a Claim for Payment deemed acceptable by the **Department** and OSC, whichever is later.

The **Department** shall retain ten (10) percent of the budget amount of this Agreement once payment to the **Contractor** equals ninety (90) percent of the budget amount to ensure completion of the work under this Agreement. The total amount retained shall be paid to the **Contractor** together with the final payment under this Agreement and shall be subject to the same conditions as the final payment.

Final payment, including payment of retained amounts if any, shall not be made until work under the Agreement is completed to the satisfaction of the **Department** and the **Contractor's** final performance report and a final budget report detailing receipt and expenditure of all funds received pursuant to this Agreement by major budget category are received and accepted by the **Department**. Satisfactory completion and acceptance shall be defined as conformance to established standards for such reports and conformance to the attached plan of work.

Upon examination of the **Contractor's** payment requests and supporting material, the **Department** may, in its sole discretion, modify or adjust the amount requested to reflect contract funds expended as of the date of the request. Subsequent to its review and approval of the payment request, the **Department** will transmit the request to the Comptroller for payment.

Payment for claims submitted by the **Contractor** shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The **Contractor** shall comply with the Comptroller of the State of New York's procedures to authorize electronic payments. The **Contractor** acknowledges that it will not receive payment on any claims submitted under this Agreement if it does not comply with the Comptroller of the State of New York's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

PROGRESS REPORTS

The **Contractor** shall file written progress reports with the **Department** *within forty-five (45) days of the end of each year of this Agreement*. Progress reports shall be in a format specified by the Department.

PAYMENT CONTINGENCY

Funds for payment under this Agreement are provided to the **Department** through appropriations from the New York State Legislature. These appropriations are made on a fiscal year basis. New York State's fiscal year begins on April 1 of each

calendar year and ends on March 31 of the following calendar year. Funds for payments under this Agreement were or are expected to be appropriated to the **Department** during fiscal year **2013-2014**. Payments made after fiscal year **2013-2014** or payment for work pursuant to this Agreement which is completed or continued by the **Contractor** after fiscal year **2013-2014** is subject to appropriation of funds by the Legislature in each subsequent fiscal year.

RETAINAGE

The **Department** shall retain ten (10) percent of the budget amount of this Agreement once payment to the **Contractor** equals ninety (90) percent of the budget amount to ensure completion of the work under this Agreement. The total amount retained shall be paid to the **Contractor** together with the final payment under this Agreement and shall be subject to the same conditions as the final payment.

FINANCIAL LIMIT

The financial limit of State appropriated funds under this Agreement shall not exceed the amount indicated on the latest executed version of the signature page of this Agreement and the **Department** shall not be obligated to make any payment to the **Contractor** in excess of that amount.

CONTRACT EXPENDITURES

No transfer of funds will be allowed between project budgets. Any modification to budget cost categories within project budgets in excess of ten percent (10%) shall be made only with the prior written approval of the **Department**. This does not apply to modifications of less than one thousand dollars (\$1,000).

For Agreements exceeding fifty thousand dollars (\$50,000), proposed modifications to the budget that result in a transfer of funds among program activities or budget cost categories, but do not affect the amount, consideration, scope or other terms, require the approval of the Comptroller of the State of New York when:

1. The amount of the modification is equal to or greater than ten percent (10%) of the total value of the contract for contracts of less than five million dollars (\$5,000,000); or

2. The amount of the modification is equal to or greater than five (5%) percent of the total value of the contract for contract of more than five million dollars (\$5,000,000).

NON-DUPLICATION OF PAYMENTS

The payments received by the **Contractor** under this Agreement shall not duplicate payments received from any other source for the work performed under this Agreement. In the event of such duplication, the **Contractor** shall remit to the

Department the amount which duplicates payment received from other sources.

SUBCONTRACTS

Any subcontract under this Agreement shall be in writing and shall clearly describe the goods or services to be provided and the total cost of such goods or services. Subcontracts for services only shall separately state the rate of compensation on a per-hour or per-day basis.

FINAL REPORT

Not later than forty-five (45) days from the end date of this Agreement, the **Contractor** shall file with the **Department** a final written report in a format specified by the **Department**.

RECORDS MAINTENANCE, EXAMINATION AND RETENTION

The **Contractor** shall maintain records and accounts in specific detail to identify all contract funds received and expended under this Agreement. The **Contractor** shall maintain a daily written record which contains the name(s) of the officer(s) and employee(s) providing services under this Agreement and the amount of time expended upon such services.

The **Contractor** shall maintain the records required under this paragraph as set forth in Appendix A to this Agreement.

INDEMNIFICATION

The **Contractor** agrees to indemnify and hold harmless the State of New York and the **Department** from all liability incurred by the **Department** for bodily injury (including death) and real and personal property damage resulting from the negligent acts, errors or omissions of the **Contractor**, its officers, agents or employees in the provision of services under this Agreement, provided that the **Department** timely notifies the **Contractor** of any such claim and afford the **Contractor** an opportunity to defend such claim and cooperate fully with the **Contractor** in the defense of any claims.

NON-SECTARIAN PURPOSE

The **Contractor** shall not expend funds received under this Agreement for any purposes other than for performance of the work under this Agreement, and hereby represents that no contract funds shall be expended directly or indirectly for any private or sectarian purpose.

CONTRACTOR NOT DEPARTMENT EMPLOYEE OR AGENT

Neither the **Contractor**, nor its agents, employees, suppliers or subcontractors shall be in any way deemed to be employees or agents of the **Department** or of the State of New York in performing the work under this Agreement.

DEVIATION FROM WORK

The **Contractor** shall perform the work under this Agreement as outlined in the scope of work annexed as Appendix C. Any substantial deviation from the plan of work shall require the prior written approval of the **Department**.

RESPONSIBILITY REQUIREMENTS

- A. The **Department** is required to undertake an affirmative review of the responsibility of any vendor to which it proposes to make a contract award. Such review shall be designed to provide reasonable assurances that the proposed contractor is responsible. In undertaking such review, the **Department** must comply with the following standards:
 - a. In all cases, the **Department** must consider any information that has come to its attention from the proposed contractor or any other source that would raise issues concerning the proposed contractor's responsibility.
 - b. In the case of any contract valued at \$100,000 or more, the **Department** must affirmatively require disclosure by the proposed contractor of all information that the **Department** reasonably deems relevant to a determination of responsibility by completing a Vendor Responsibility Questionnaire.
- B. The **Contractor** shall at all times during the **Agreement** term remain responsible. The **Contractor** agrees, if requested by Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- C. The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this **Agreement**, at any time, when he or she discovers information that calls into question the responsibility of the **Contractor**. In the event of such suspension, the **Contractor** will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the **Contractor** must comply with the terms of the suspension order. **Agreement** activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the **Agreement**.
- D. Upon written notice to the **Contractor**, and a reasonable opportunity to be heard with appropriate Commissioner officials or staff, the **Agreement** may be terminated by Commissioner or his or her designee at the **Contractor's** expense where the **Contractor** is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or

she may deem advisable and pursue available legal or equitable remedies for breach.

TERMINATION

The **Department** may terminate this Agreement for convenience upon giving thirty (30) days written notice to the **Contractor**. This Agreement may be terminated at any time upon mutual written consent of the **Department** and the **Contractor**. Upon termination, the **Contractor** shall immediately cease work and prepare a statement of costs, expenses and non-cancelable commitments incurred as of the date of such termination.

The **Department** may terminate this Agreement for cause upon giving one (1) days written notice.

The **Contractor's** failure to perform in accordance with the terms of this Agreement due to circumstances reasonably beyond the **Contractor's** control should not constitute cause for termination pursuant to this provision. In the event of such failure to perform, the **Department** may, at its option, either grant the **Contractor** a specified period in which to correct its performance, or terminate this Agreement in accordance with this paragraph.

MODIFICATION

This Agreement may not be modified unless such modification is made in writing, executed by the **Department** and the **Contractor** and approved by the Attorney General and Comptroller of the State of New York.

NECESSARY SIGNATURES

This Agreement shall not be binding and effective upon the **Department** unless and until approved by the Attorney General and the Comptroller of the State of New York.

SPECIAL CONDITIONS FOR AGREEMENTS

NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

These special conditions apply to the administrative aspects of this particular agreement. These special conditions cannot be changed.

INITIAL PAYMENT

The **Department** may, at its sole discretion, make an initial payment(s) to the **Contractor** up to 25% of the amount the Agreement.

Any initial payment will be eligible for payment only after approval of this Agreement by the Attorney General and OSC and upon submission of a Claim for Payment deemed acceptable by the **Department** and OSC.

The initial payment(s) will be recouped by reducing the final payment by the total amount of the initial payment. Any unexpended balance at the end of the Agreement period will be refunded to the **Department**. If this Agreement is terminated prior to its expiration, the **Contractor** will refund to the **Department** any remaining balance then outstanding.

AUDIT OF RECORDS

The **Contractor** agrees that the Comptroller General of the United States, or his duly authorized representative and accredited representatives of the United States Department of Agriculture or cognizant audit agency, shall, until the expiration of three years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the **Contractor**. These records must be maintained by the **Contractor** for that period of time.

INSURANCE

The **Contractor** shall obtain and keep in force during the term of this Agreement insurance policies, naming the State of New York and the **Department** as additional insured as follows:

TYPE	AMOUNT
COMMERCIAL GENERAL LIABILITY INSURANCE	\$1,000,000
COMMERCIAL BUSINESS AUTOMOBILE LIABILITY INSURANCE	\$1,000,000

Certificates of insurance showing the above coverage shall be provided to the

Department within ten (10) business days from the date the **Contractor** executes the Agreement. The certificates shall provide that the policies shall not be amended or cancelled upon less than ten (10) days written notice to the **Department** from the policy issuers.

TRAVEL

Travel expenses may be reimbursed at rates not to exceed rates applicable to State employees provided that such expenses: (1) conform, subject to the contract expenditures provision, to the Budget approved by the Department and annexed as Appendix B; and (2) are necessary for the performance of the work under this Agreement.

**NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS
SPECIALTY CROP BLOCK GRANT PROGRAM – FARM BILL
ANNUAL PERFORMANCE REPORT REQUIREMENTS**

Instructions: *An annual performance report must be received by the Department within 45 days of the end of each year of the grant award agreement. The annual performance report must conform to the following outline.*

1. Cover Page

- Name of Contractor
- Contract Number
- Title of Project
- Name and Contact Information of Person Submitting Report

2. Activities Performed

- Briefly summarize activities performed, targets, and/or performance goals achieved during the reporting period. Whenever possible, describe the work accomplished in both quantitative and qualitative terms. Include the significant results, accomplishments, conclusions and recommendations. Include favorable or unusual developments.
- Provide a comparison of actual accomplishments with the goals established for the reporting period.
- Present the significant contributions and role of project partners in the project.
- Clearly convey progress toward achieving outcomes by illustrating baseline data that has been gathered to date and showing the progress toward achieving set targets.
- If a target of a project has already been achieved, it is encouraged to amend the outcome measure. This permits the project staff to “stretch” the goals in order to go beyond what they are already doing.

3. Problems and Delays

- Note unexpected delays, impediments, and challenges that have been confronted in order to complete the goals for each project. Explain why these changes took place.
- Mention the actions that were taken in order to address these delays, impediments, and challenges.
- Review measurable outcomes to determine if targets are realistic and attainable. An objective that is too stringent should be scaled back and identified in the performance report. Keep in mind that targets may slip due to all kinds of factors, such as employee turn-over and bad weather.
- In the event that the work plan timeline, expected measurable outcomes, budget, and/or methodology needs to be adjusted, provide an outline of those changes.

4. Future Project Plans

- Briefly summarize activities performed, targets, and/or performance goals to be achieved during the next reporting period for each project. Whenever possible, describe the work accomplished in both quantitative and qualitative terms.
- Describe any changes that are anticipated in the project.

5. Funding Expended To Date

- Provide information regarding the level of grant funds expended to date.
- In the event that a project gained income as a result of planned activities, provide the amount of this supplemental funding and how it will be reinvested into the project.

**NEW YORK STATE
DEPARTMENT OF AGRICULTURE AND MARKETS
SPECIALTY CROP BLOCK GRANT PROGRAM – FARM BILL**

FINAL PERFORMANCE REPORT REQUIREMENTS

Instructions: *A final performance report must be received by the Department within 45 days of the end of the grant award agreement. The final performance report must conform to the following outline.*

1. Cover Page

- Name of Contractor
- Contract Number
- Title of Project
- Name and Contact Information of Person Submitting Report

2. Project Summary

- Provide a background for the initial purpose of the project, which includes the specific issue, problem, or need that was addressed by this project.
- Establish the motivation for this project by presenting the importance and timeliness of the project.
- If the project built on a previously funded project with the SCBGP or SCBGP-FB describe how this project complemented and enhanced previously completed work.

3. Project Approach

- Briefly summarize activities performed and tasks performed during the grant period. Whenever possible, describe the work accomplished in both quantitative and qualitative terms. Include the significant results, accomplishments, conclusions and recommendations. Include favorable or unusual developments.
- Present the significant contributions and role of project partners in the project.

4. Goals and Outcomes Achieved

- Supply the activities that were completed in order to achieve the performance goals and measurable outcomes for the project.
- If outcome measures were long term, summarize the progress that has been made towards achievement.
- Provide a comparison of actual accomplishments with the goals established for the reporting period.
- Clearly convey completion of achieving outcomes by illustrating baseline data that has been gathered to date and showing the progress toward achieving set targets.

5. Beneficiaries

- Provide a description of the groups and other operations that benefited from the completion of this project's accomplishments.
- Clearly state the quantitative data that concerns the beneficiaries affected by the project's accomplishments and/or the potential economic impact of the project.

6. Lessons Learned

- Offer insights into the lessons learned by the project staff as a result of completing this project. This section is meant to illustrate the positive and negative results and conclusions for the project.
- Provide unexpected outcomes or results that were an effect of implementing this project.
- If goals or outcome measures were not achieved, identify and share the lessons learned to help others expedite problem-solving.

7. Additional Information

- Provide additional information available (i.e. publications, websites, photographs) that is not applicable to any of the prior sections.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor

Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of

the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by

Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor

Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

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