

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

**INVITATION FOR BIDS**

**Nutrition Slide Guide for the New York State  
Senior Farmers' Market Nutrition Program**

**IMPORTANT: SEE "BID SUBMISSION REQUIREMENTS" HEREIN.**

**BID OPENING:**

**DATE: June 17, 2008**  
**TIME: 4:30 p.m. EST**

**CONTRACT PERIOD:**

June 20, 2008 to  
March 31, 2009

**ADDRESS INQUIRIES TO:**

Jonathan Thomson, Program Manager  
New York State Farmers' Market Nutrition Program  
Telephone No. (518) 457-7076  
Email: [Jonathan.Thomson@agmkt.state.ny.us](mailto:Jonathan.Thomson@agmkt.state.ny.us)

**BIDDER'S CERTIFICATION**

By signing you certify your express authority to sign on behalf of yourself, your company or other entity and full knowledge and acceptance of this INVITATION FOR BIDS and Appendix A (Standard Clauses for New York State Contracts) and that all information provided is complete, true and accurate.

Name of Company Bidding:	Bidder's Federal Tax Identification No.:		
Street	City	State	Zip
<b>NOTE: Cash Discounts will not be considered in determining low bid, but cash discounts of any size may be considered in awarding tie bids.</b>			
_____ % Cash Discount for payment within 15 days of delivery and/or receipt of voucher			
_____ % Cash Discount for payment within 30 days of delivery and/or receipt of voucher			

If you are not bidding, place an "x" in the box and return this page only.

WE ARE UNABLE TO BID AT THIS TIME BECAUSE \_\_\_\_\_

Bidder's Signature:	Printed or Typed Name:
Title:	Date:
Phone:	
Fax:	
E-mail Address:	

## **BID SUBMISSION REQUIREMENTS**

Each bidder must submit a bid package consisting of the original and one (1) copy of the proposal. (NOTE: See “Proposal Format” section of this IFB for detailed instructions on how to prepare the proposal package.) Packages **MUST BE RECEIVED** in the Department’s Albany Office not later than 4:30 P.M. EDT on Tuesday, June 17, 2008. Late proposals will not be accepted. Applicants, not delivery services or other intermediaries, are responsible for the timely submission of proposals. The cost and technical components must be submitted in separate sealed envelopes. The entire proposal shall be submitted in an envelope that is clearly marked as follows: “Printing IFB – Nutrition Slide Guide for 2008 Farmers’ Market Nutrition Program”. Inside the envelope shall be two (2) envelopes which shall be identified as follows: 1) Bidder’s name, “Printing IFB – Nutrition Slide Guide for 2008 Farmers’ Market Nutrition Program -- Technical Component”; and 2) Bidder’s name, “Printing IFB – Nutrition Slide Guide for 2008 Farmers’ Market Nutrition Program -- Request for Bid Form”. Proposal packages shipped or mailed shall be addressed to:

Printing IFB – Nutrition Slide Guide for 2008 Farmers’ Market Nutrition Program  
Lucy Roberson, Director  
Division of Fiscal Management  
NYS Department of Agriculture and Markets  
10B Airline Drive  
Albany, New York 12235

Packages may be hand delivered to the receptionist in the Department’s Offices at 10B Airline Drive, Albany, NY. Proposals will NOT be accepted via FAX or email.

## **QUESTIONS CONCERNING THE IFB**

Prospective bidders with questions concerning this IFB should present those questions in writing to:

Jonathan Thomson, Program Manager  
New York State Farmers’ Market Nutrition Program  
New York State Department of Agriculture and Markets  
10B Airline Drive  
Albany, NY 12235  
FAX (518) 457-2716  
Email: [Jonathan.Thomson@agmkt.state.ny.us](mailto:Jonathan.Thomson@agmkt.state.ny.us)

All questions shall be submitted in writing (facsimile or e-mail will be accepted) to Mr. Thomson by 4:30 PM EDT Monday June 9, 2008. A list of questions about the IFB, answers to those questions, as well as an electronic version of this IFB and any changes, additions or deletions to the IFB will be posted on the Department’s website ([www.agmkt.state.ny.us](http://www.agmkt.state.ny.us)) under “Funding Opportunities”. Questions and responses will be posted on the website by Tuesday, June 10, 2008. Applicants are urged to check the Department’s website frequently for notices of any changes, additions or deletions to the IFB. If you are unable to access the website, please contact Mr. Thomson to arrange for alternate delivery. All questions and responses shall be

incorporated into this IFB as a formal addendum. NOTE: Bidders are required to submit a signed copy of any addendums with the bid package.

### **BACKGROUND AND PURPOSE**

The New York State Department of Agriculture and Markets administers both a Farmers' Market Nutrition Program for clients of the Women, Infants and Children (WIC) program and a Senior Farmers' Market Nutrition Program for income eligible seniors over age 60. Educational materials such as the Nutrition Slide Guide described herein for the Senior Farmers' Market Nutrition Program are printed annually.

### **SCOPE OF WORK**

The contractor will produce either 50,000 or 100,000 four inch by seven inch Nutrition Slide Guides in two versions, one English and one Spanish, and deliver them to the Department of Agriculture and Markets in Albany, New York.

### **SPECIFICATIONS**

#### **ESTIMATED QUANTITY:**

50,000 to 100,000 Nutrition Slide Guides in two versions, one English and one Spanish.

#### **SIZE:**

Nutrition Slide Guides are four inches wide by seven inches tall with an outer sleeve and an internal slide. Inner slide is 3 7/8" by 7"

#### **STOCK:**

12 pt ctd. for outer sleeve and inner slide.

#### **COPY:**

Artwork will be furnished by the Department in Illustrator ai files by June 20, 2008. Both sides of the sleeve have a four color process background faded in the center and pronounced around the perimeter. Narrative on both sides of sleeve is in black ink. Inner slide is white with black ink two sided.

#### **PRESSWORK:**

Four color process background on both sides of outer sleeve with black in narrative. Black ink narrative on both sides of inner sleeve.

#### **INK:**

Four color process background on both sides of sleeve. Black ink for narrative on both sides of sleeve and inner slide.

CONSTRUCTION:

Outer sleeve is folded and glued on one edge to form the sleeve. Dye cuts on top and bottom center to form notches to push/pull inner slide. Dye cuts to form windows on both sides of the finished sleeve. Inner slide cut to precisely slide up and down in the outer sleeve without binding or falling out of the sleeve.

OVERRUNS:

Overruns up to 3% of the quantity specified will be accepted. The Department, at its option, may either accept or reject additional quantities beyond the allowable overrun. If overruns beyond the allowable percentage are accepted, they will be at a negotiated price. No underruns are acceptable.

PACKING & SHIPPING:

Ship in new corrugated cartons not to exceed 40 pounds gross. Mark all cartons on end with item, quantity, and P.O. number.

DELIVERY:

Delivery will be to 10B Airline Drive, Albany New York 12235

**Delivery must be completed no later than July 3, 2008. Failure to deliver on time will be considered non performance and may result in payment being withheld.**

PREPARATORY MATERIALS:

All mechanicals, negatives, disks and magnetic cartridges are or will become the property of the Department, and must be delivered to the Department within fifteen (15) days after completion of job.

**CONTRACT TERMS**

The Department is seeking bids for a 10-month contract beginning June 20, 2008. A copy of the standard clauses that set forth the general terms and conditions required in all contracts awarded by the Department as well as any special conditions that will be required for this contract is attached hereto (*see* Attachment 2) and is hereby expressly made a part of this IFB as fully as if set forth at length herein. The contract is contingent on the availability of funding and approval by the Department, the Attorney General's Office and Office of the State Comptroller. Price escalation will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent contract award. Subcontracting of any portion of the services required by this IFB shall not be permitted.

*Appendix A (Standard Clauses for All State Contracts)*

Appendix A, which is posted on the Department's website at [www.agmkt.state.ny.us](http://www.agmkt.state.ny.us), is hereby expressly made a part of this IFB as fully as if set forth at length herein. The successful contractor will be responsible for complying with the terms and conditions contained therein.

### *Cancellation/Discharge of Contractor*

The Department reserves the right to cancel the services under this contract at any time upon determination by the Department that the Contractor is unable or incapable of performing the service to the satisfaction of the Department, and in the event of such stoppage the Department shall have the right to arrange for completion of the service in such manner as it may deem advisable. If the costs of such completion exceed the amount of the contract, the Contractor shall be liable to the Department for all excess costs.

### *Contract Liaisons*

The contractor will designate an employee to act as the primary contact person in all matters regarding this contract. Upon notification of award, contractor must provide the name, title, telephone and fax numbers of their contact person to the Department.

The Department's contact for questions regarding the specifications and requirements of the contract as well as questions regarding composition related matters and final approval of copy, proofs, and end product is Jonathan Thomson, Program Manager, New York State Farmers' Market Nutrition Program, 10B Airline Drive, Albany, NY 12235, Telephone: (518) 457-7076, FAX (518) 457-2716, Email: [Jonathan.Thomson@agmkt.state.ny.us](mailto:Jonathan.Thomson@agmkt.state.ny.us)

All inquiries or correspondence regarding this contract must be through the appropriate contact person or their designees.

### *Invoicing and Payments*

Payment will be made on a reimbursement basis. Invoices for payment shall be submitted to the Department on a New York State Standard Voucher provided by the Department.

### *Notification of Problems by Contractor*

If the contractor anticipates any delays or problems which may affect the quality, construction, manufacturing, or processing of the any of the required items, they must immediately serve written notification to the Department stating specifically the problem and/or delay and expeditiously pursue any remedies that may be necessary.

### *MacBride Fair Employment Principles (See Attachment 4)*

Chapter 807 of the Laws of 1992 prohibits a State department from contracting for the supply of goods and services or construction with any contractor who does not agree to stipulate that it either has no business operations in Northern Ireland, or if it does have such business operations, it shall take lawful steps in good faith to conduct such operations in accordance with the MacBride Fair Employment Principles, if there is another contractor who will execute such stipulation and provide the goods and services or construction of comparable quality at a comparable price.

### *Minority and Women Owned Business Enterprises*

The Department of Agriculture and Markets recognizes the need to take affirmative action to insure that Minority and Women Owned business enterprises and minority and women employees are given the opportunity to participate in providing goods and services sought by the Department. This opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons is essential to obtain social and economic equality and improve the functioning of the State economy. Accordingly, it is the policy of the Department to foster and promote the full participation of such individuals and business firms in the Department's contracting program.

The bidder, by bidding on this contract, acknowledges his or her understanding and support for the social policy herein stated and pledges to fully cooperate with the State of New York in the implementation of this policy, and further to exert a good faith effort to solicit and obtain the participation of such individuals and firms as subcontractors, suppliers and employees on this contract.

For this contract the Department has established the following goals:

Minority-Owned business enterprises	1%
Women-Owned business enterprises	1%

## QUALIFICATIONS

**Bids will be considered only from bonafide printing companies possessing printing equipment capable of producing the printing requirements described in this invitation for bids.** Bidders must have completed at least three printing jobs (of similar size and scope) for two different clients. These jobs must have been completed within the past two years.

## PROPOSAL FORMAT

**The bidder is solely responsible for the content and completeness of the proposal. The Department may request clarification from the bidder regarding items in the proposal. However, the Department is under no obligation to solicit information missing from the proposal.**

The proposal shall be organized in the following format (submit the original and (1) copy):

### Section 1: Qualifications of Bidder

1.1 Completed Bidder's Certification (*See Cover Page*)

1.2 Work Samples -- Provide a minimum of three samples of items with similar specifications that were printed by the bidder. Include a short narrative (no more than one page) describing the jobs in terms of printing, deadlines, and any problems encountered in carrying out the work.

1.3 References -- Provide a list of at least three references from clients for whom you have provided printing services, including references for each work sample submitted. References should demonstrate the ability of the bidder to perform jobs similar in scope to the size, nature and complexity of the outlined bid. The references shall include the:

- Name, address, contact person, telephone number, and fax number for the referenced account; and
- Volume of business performed within the past three years for each referenced account.

The Department reserves the right to contact any or all of the clients listed to verify the information provided.

1.4 Attach a signed copy of any addendums obtained from Department website.

## **Section 2: Financial Proposal**

All bids must be submitted on the attached Request for Bid Form (Attachment 1). All bids must include the following:

Price per slide guide for quantity of 50,000 units

Price per slide guide for quantity of 100,000 units.

**Incomplete Bids will be rejected.** The final quantity will be determined by June 6, 2008. Any subsequent adjustments, due to extenuating circumstances, will be negotiated with the contractor. Prices quoted are to be firm for the entire period of the contract.

### **OTHER REQUIRED DOCUMENTS**

1. Signed and Notarized Non-Collusive Bidding Certification (Attachment 3)
2. MacBride Stipulation (Attachment 4)
3. A completed Contractor Responsibility Questionnaire (Attachment 5)
4. Offeror's Affirmation of Understanding and Agreement Pursuant to State Finance Law §139-j(3) and §139-j(6) (Attachment 6-Form 2)
5. Offeror's Certification of Compliance Pursuant to State Finance Law §139-k(5) (Attachment 6-Form 3)

### **DECISION CRITERIA**

The Department will evaluate the proposals in two stages. If deemed to be in the best interest of the Department and the State, a contract will be awarded to the single qualified responsible bidder whose proposal represents the lowest total cost to the Department.

*Note: The Department reserves the right to reject all proposals and to seek new proposals if it is determined that it is in the best interest of the Department and the State.*

The evaluation of the proposals will be done in 2 stages as follows:

#### **Stage 1- Evaluation of Financial Proposal**

The low bidder will be determined based on the total price for either 50,000 or 100,000 finished slide guides at the discretion of the Department contingent on available funding.

**Stage 2 – Evaluation of the Bidder Qualifications**

The Department will screen the proposal received from the lowest bidder using the criteria below. A “No” response to any of the evaluation standards below will result in disqualification of the bidder.

<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>1. Did the bidder provide a list of at least 3 clients?</p> <p>Did the bidder provide at least 3 samples of the work done within the past 2 years for at least 2 separate clients identified on the list of references?</p> <p>Does the bidder have experience in providing the services required to satisfy the IFB? The Department reserves the right to contact the references to verify that the bidder did perform the services for the clients and performed those services in a timely manner.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p>2. Did bidder submit a signed copy of the required forms and addendum(s)?</p>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>4. Did the bidder provide a completed Request for Bid Form?</p>

**FREEDOM OF INFORMATION**

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

**NYS STANDARD CONTRACTOR RESPONSIBILITY QUESTIONNAIRE**

Bidder agrees to fully and accurately complete the Contractor Responsibility Questionnaire, which is attached as Attachment 5 (hereinafter the “Questionnaire”). The Bidder acknowledges that the Department’s execution of the Contract will be contingent upon the Department’s determination that the Bidder is responsible, and that the Department will be relying upon the Bidder’s responses to the Questionnaire in making that determination. The Bidder agrees that if it is found by the Department that the Bidder’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Department may terminate the Contract by providing ten (10) days written notification to the Contractor. In no case shall such termination of the Contract by the Department be deemed a breach thereof, nor shall the Department be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

**SUMMARY OF DEPARTMENT’S POLICY REGARDING STATE FINANCE LAW SECTIONS 139-J AND 139-K**

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Department of Agriculture and Markets and an offeror/bidder during the procurement process. (See Attachment 6 -- “Guidelines Regarding Permissible Contacts During a Procurement and The Prohibition of Inappropriate lobbying Influence”.) An offeror/bidder is restricted from making contacts from the earliest notice of intent to solicit bids/proposals through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain



statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, are identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offeror/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period, the offeror/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found in the Department's Guidelines, which are attached, and on the Office of General Services Website at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

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

Emma Graham  
Division of Fiscal Management  
Telephone: (518) 457-0864  
Fax: (518) 485-7750  
E-mail:[emma.graham@agmkt.state.ny.us](mailto:emma.graham@agmkt.state.ny.us)

Judy Giovannetti  
Division of Fiscal Management  
Telephone: (518) 457-6172  
Fax: (518) 485-7750  
E-mail:[judy.giovannetti@agmkt.state.ny.us](mailto:judy.giovannetti@agmkt.state.ny.us)

State of New York  
 Department of Agriculture and Markets  
**Nutrition Slide Guides for New York State  
 Senior Farmers' Market Nutrition Program**

**BID OPENING**

**DATE: Tuesday, June 17, 2008**  
**TIME: 4:30 P.M.**

**Contact: Jonathan Thomson**  
 (518) 457-7076

*Bids must be on this form. The Department reserves the right to reject any/all bids.*

**PRICE INCLUDES ALL CUSTOMS DUTIES AND CHARGES AND IS NET, F.O.B. DESTINATION INCLUDING ALL COSTS NECESSARY OR INCIDENTAL TO PROPER EXECUTION OF JOB.**

Senior Farmers' Market Nutrition Slide Guides	Price per unit	Units	Total Bid
50,000 Slide Guides		<b>50,000</b>	
100,000 Slide Guides		<b>100,000</b>	

*\* All quantities listed are estimated and contract shall be only for the actual quantities ordered during the course of the contract.*

I hereby certify that 1) the prices quoted above are the same as or lower than those quoted other corporations, institutions and government agencies on similar services, quantities, terms and conditions; and 2) all prices include the cost of packing and shipping.

\_\_\_\_\_  
 Bidder's Firm Name

\_\_\_\_\_  
 Federal Identification Number

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City, State, Zip

\_\_\_\_\_  
 Bidder's Signature

\_\_\_\_\_  
 Official Title

\_\_\_\_\_  
 Printed or Typed Signature Name

\_\_\_\_\_  
 Telephone Number

\_\_\_\_\_  
 E-Mail Address

\_\_\_\_\_  
 Fax Number

# AGREEMENT

**New York State  
Department of Agriculture and Markets  
10B Airline Drive  
Albany, NY 12235-0001  
Agency Code 06000**

Contract Number:

Amount of Agreement: **\$**

Contract Period:

Federal ID: **FederalID**

Contract Authority: **Agriculture and Markets Law § 16(32)**

Contractor Name/Project Sponsor:

Street: \_\_\_\_\_ City: \_\_\_\_\_ State: **NY** Zip: \_\_\_\_\_

Billing Address (if different from above):

Street: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Title/Description of Project:

**THIS AGREEMENT INCLUDES THE FOLLOWING:**

- This Coversheet
- Appendix A (Standard Clauses for all New York State Contracts)
- Appendix B (Project Budget)
- Appendix C (Invitation for Bids)
- Appendix D (The Department's General Conditions)
- Appendix E (The Department's Special Conditions)
- Appendix F Other (Identify)

**FOR AMENDMENTS CHECK THOSE THAT APPLY:**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Additional Work</li> <li><input type="checkbox"/> Extension of Time<br/>From _____ to _____</li> <li><input type="checkbox"/> Increase Amount</li> <li><input type="checkbox"/> Decrease Amount</li> <li><input type="checkbox"/> Revised Budget</li> <li><input type="checkbox"/> Revised Scope of Work</li> <li><input type="checkbox"/> Other</li> </ul> | <p>If Increase/Decrease in Amount:</p> <p>Previous Amount: <b>\$</b> _____</p> <p>Increase/decrease <b>\$</b> _____</p> <p>New Total: <b>\$</b> _____</p> |
|---|---|

**The Contractor and the Department agree to be bound by the terms and conditions contained in this Agreement.**

**CONTRACTOR**

**NYS DEPARTMENT OF AGRICULTURE & MARKETS**

Signature of Contractor's Authorized Representative:  
\_\_\_\_\_

Date: \_\_\_\_\_

Typed or Printed Name of Above Representative:  
\_\_\_\_\_

Title of Authorized Representative:  
\_\_\_\_\_

Notary Public: On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me personally appeared \_\_\_\_\_, to me known, and known to me to be the same person who executed the above instrument and duly acknowledged the execution of the same.

Signature of Authorized Official:  
\_\_\_\_\_

Date: \_\_\_\_\_

Typed or Printed Name of Above Official:  
\_\_\_\_\_

Title of Authorized Official:  
\_\_\_\_\_

State Agency Certification: In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

Attorney General:

Approved: Thomas P. DiNapoli, State Comptroller  
By:  
Date:

## APPENDIX D

### 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

Payment shall be made to the **Contractor** under this Agreement upon the submission of a payment request (standard voucher), the required progress report and a budget report in the format prescribed by the **Department**.

The **Contractor** shall submit all requests for payment and reports to the following address: NYS Department of Agriculture and Markets, Division of Fiscal Management, 10B Airline Drive, Albany, NY 12235. Invoices, Standard Vouchers 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.

Initial payment to the **Contractor** under this Agreement shall not be made unless the **Contractor** shall have submitted to the **Department** a written payment request together with such information as required by the Agreement. Initial payment shall not be due until the latter of either the last day of the \_\_\_\_\_ calendar month of the term of this Agreement, or the thirtieth calendar day after receipt of the payment request, where contract funds have been appropriated and made available to the **Department**.

Payments shall not be made if the **Contractor** fails to file the progress reports and budget reports, if any, as required by this Agreement. The **Contractor's** payment requests shall include a statement of expenses and charges by major budget category for work actually performed or expenses incurred in accordance with the terms of this Agreement during the period covered by the request.

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.

The total payment made under this Agreement will not exceed the **Contractor's** actual costs and expenses arising from the completion of the work under this Agreement.

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.

## **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 **2008-2009**. Payments made after fiscal year **2008-2009** or payment for work pursuant to this Agreement which is completed or continued by the **Contractor** after fiscal year **2008-2009** 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**

Expenditures under this Agreement shall conform to the budget annexed as Appendix B, provided however, that the **Contractor** may vary budget amounts by not more than ten percent (10%) within each specific budget category. Any budget variance in excess of ten percent (10%) shall be made only upon the prior written approval of the **Department** and the Comptroller of the State of New York. This paragraph does not apply to budget amounts of one thousand dollars (\$1,000.00) or less.

## **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.

## **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 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** promptly notify 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**.

## **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**

If the financial limit under this Agreement exceeds Fifty Thousand Dollars (\$50,000) 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.

**APPENDIX E**  
**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.

**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

Certificates of insurance showing the above coverages 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.

**MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE**

For this Agreement the **Department** has established the following goals:

Minority business enterprises	1%
Women owned business enterprises	1%

**DELIVERY DELAYS**

The **Contractor** shall notify the **Department** promptly if they anticipate any delays in meeting the deadlines for delivery set forth in the Invitation for Bids.

**TERMINATION PURSUANT TO NEW YORK STATE FINANCE LAW SECTION 139-K**

The **Department** reserves the right to terminate this Agreement in the event it is found that the certification filed by the **Contractor** in accordance with New York State Finance Law Section 139-k was intentionally false or intentionally incomplete. Upon such finding, the **Department** may exercise its termination right by providing written notification to the **Contractor**.



**NON-COLLUSIVE BIDDING CERTIFICATION REQUIRED BY  
SECTION 139-D OF THE STATE FINANCE LAW**

**BY SUBMISSION OF THIS BID, ANY BIDDER AND EACH PERSON SIGNING ON BEHALF OF ANY BIDDER CERTIFIES, AND IN THE CASE OF A JOINT BID, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:**

[1] The prices in this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], AND [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER(S) SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE.**

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Signature \_\_\_\_\_

Name (Typed) \_\_\_\_\_

Company Position \_\_\_\_\_

Company Name \_\_\_\_\_

Date Signed \_\_\_\_\_

**Sworn to before me this**

\_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
**Notary Public**

Signature \_\_\_\_\_

Name (Typed) \_\_\_\_\_

Company Position \_\_\_\_\_

Company Name \_\_\_\_\_

Date Signed \_\_\_\_\_

**Sworn to before me this**

\_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
**Notary Public**

## MACBRIDE FAIR EMPLOYMENT PRINCIPLES

### STIPULATION

Chapter 807 of the Laws of 1992 prohibits a State department from contracting for the supply of goods and services or construction with any **Contractor** who does not agree to stipulate that it either has no business operations in Northern Ireland, or if it does have such business operations, it shall take lawful steps in good faith to conduct such operations in accordance with the MacBride Fair Employment Principles.

**PLEASE READ AND INITIAL EITHER STATEMENT #1 OR STATEMENT #2. DO NOT INITIAL BOTH STATEMENTS.**

- \_\_\_\_\_ 1. The Contractor, and any individual or legal entity in which the Contractor holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership interest in the Contractor has no business operations in Northern Ireland.
  
- \_\_\_\_\_ 2. The Contractor, and any individual or legal entity in which the Contractor holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership interest in the Contractor shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles and shall permit the independent monitoring of their compliance with such principles.

Dated: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK

Contract No. \_\_\_\_\_

Contractor Responsibility Questionnaire

THE NEW YORK STATE OFFICE OF THE STATE COMPTROLLER REQUIRES THAT THE FOLLOWING INFORMATION BE OBTAINED IN ORDER TO PROCESS YOUR CONTRACT.

1. CONTRACTOR NAME: \_\_\_\_\_

2. FEDERAL ID NO. (FEIN) or SOCIAL SECURITY NO.: \_\_\_\_\_

3. D/B/A — Doing Business As (if applicable): \_\_\_\_\_ COUNTY FILED: \_\_\_\_\_

4. DO YOU USE, OR HAVE YOU USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, OR D/B/A OTHER THAN WHAT IS LISTED IN QUESTIONS 1-3 ABOVE?  YES  NO

If yes, provide the name(s), FEIN(s) and d/b/a(s) and the address for each such company and d/b/a on a separate piece of paper and attach to this response.

5. WEBSITE ADDRESS (if applicable): \_\_\_\_\_

6. Address: Street: \_\_\_\_\_ City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County: \_\_\_\_\_

7. Telephone Number: ( ) \_\_\_\_\_ 8. Fax Number: ( ) \_\_\_\_\_

AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE:

AUTHORIZED CONTACT FOR THE PROPOSED CONTRACT:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_

E-Mail: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Fax Number: ( ) \_\_\_\_\_

Fax Number: ( ) \_\_\_\_\_

10. Type of Business: (please check appropriate box and provide additional information):

a)  Business Corporation State of Incorporation: \_\_\_\_\_

b)  Sole Proprietor State/County filed in: \_\_\_\_\_

c)  General Partnership State/County filed in: \_\_\_\_\_

d)  Not-for-Profit Corporation Charities Registration or Identification Number: \_\_\_\_\_

e)  Limited Liability Company (LLC) Jurisdiction filed in: \_\_\_\_\_

f)  Limited Partnership State/County filed in: \_\_\_\_\_

g)  Individual

h)  Other—Specify: \_\_\_\_\_ Jurisdiction Filed (if applicable): \_\_\_\_\_

\*IF NOT INCORPORATED IN NEW YORK STATE, PLEASE PROVIDE A COPY OF AUTHORIZATION TO DO BUSINESS IN NEW YORK STATE FILED WITH THE NEW YORK STATE DEPARTMENT OF STATE (DOS) OR INDICATE WHY YOU BELIEVE YOU ARE NOT REQUIRED TO BE AUTHORIZED. Note: If your firm is currently applying for authorization to do business in New York State please provide a copy of your application.

11. LIST NAME AND TITLE OF EACH DIRECTOR, OFFICER, MEMBER AND OWNER, as applicable (attach additional sheets as necessary):

a) \_\_\_\_\_

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

Date: \_\_\_\_\_

**STATE OF NEW YORK**  
Contractor Responsibility Questionnaire

Contract No. \_\_\_\_\_

12. HAVE YOU BEEN CERTIFIED BY THE STATE OF NEW YORK AS A MINORITY-OWNED BUSINESS ENTERPRISE, A WOMEN-OWNED BUSINESS ENTERPRISE OR IN COMPLIANCE WITH FEDERAL REGULATIONS A DISADVANTAGED BUSINESS ENTERPRISE?  Yes  No

If yes, list the certification: \_\_\_\_\_

13. **WITHIN THE PAST FIVE YEARS, HAS THE CONTRACTOR, ANY AFFILIATE<sup>1</sup>, ANY OWNER OR OFFICER OR MAJOR STOCKHOLDER (5% OR MORE SHARES) OR ANY PERSON INVOLVED IN THE BIDDING OR CONTRACTING PROCESS BEEN THE SUBJECT OF ANY OF THE FOLLOWING:**

- (a) a judgment or conviction for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (b) a criminal investigation or indictment for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (c) an unsatisfied judgment, injunction or lien for any business related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state or local government agency?  Yes  No
- (d) an investigation for a civil violation for any business related conduct by any federal, state or local agency?  Yes  No
- (e) a grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct?  Yes  No
- (f) a federal, state or local government suspension or debarment from the contracting process?  Yes  No
- (g) a federal, state or local government contract suspension or termination for cause prior to the completion of the term of a contract?  Yes  No
- (h) a federal, state or local government denial of a lease or contract award for non-responsibility?  Yes  No
- (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease?  Yes  No
- (j) a federal, state or local determination of a willful violation of any public works or labor law or regulation?  Yes  No
- (k) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license?  Yes  No
- (l) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local government laws?  Yes  No

<sup>1</sup> "Affiliate" meaning: (a) any entity in which the contractor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the contractor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a contractor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

Date: \_\_\_\_\_

**STATE OF NEW YORK**  
Contractor Responsibility Questionnaire

Contract No. \_\_\_\_\_

- (m) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful?  Yes  No
  
- (n) a rejection of a bid on a New York State contract or a lease with the state for failure to comply with the MacBride Fair Employment Principles?  Yes  No
  
- (o) a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
  - federal, state or local health laws, rules or regulations  Yes  No
  - unemployment insurance or workers' compensation coverage or claim requirements  Yes  No
  - ERISA (Employee Retirement Income Security Act)  Yes  No
  - federal, state or local human rights laws  Yes  No
  - USCIS (U.S. Citizenship and Immigration Services) and Alienage laws  Yes  No
  - Sherman Act or other federal anti-trust laws  Yes  No
  
- (p) an agreement for a voluntary exclusion from contracting with a federal, state or local governmental entity?  Yes  No
  
- (q) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status?  Yes  No
  
- (r) a rejection of a low bid on a federal, state or local contract for failure to meet statutory affirmative action or Minority or Women's Business Enterprise or Disadvantaged Business Enterprise status requirements on a previously held contract?  Yes  No
  
- (s) a finding of non-responsibility by an agency or authority due to a violation of State Finance Law 139-j?  Yes  No
  
- (t) a bankruptcy proceeding  Yes  No

**FOR EACH YES ANSWER TO QUESTIONS 13 a-t, PROVIDE DETAILS ON ADDITIONAL SHEETS REGARDING THE FINDING, INCLUDING, BUT NOT LIMITED TO CAUSE, CURRENT STATUS, RESOLUTION, ETC.**

**14. DURING THE PAST 3 YEARS, HAVE YOU FAILED TO:**

- (a) **FILE RETURNS OR PAY ANY APPLICABLE FEDERAL, STATE OR LOCAL GOVERNMENT TAXES?**  Yes  No

If yes, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount you failed to file/pay and the current status of the liability: \_\_\_\_\_

\_\_\_\_\_

- (b) **PAY NEW YORK STATE UNEMPLOYMENT INSURANCE?**  Yes  No
- If yes, indicate the years you failed to file/pay the insurance and the current status of the liability: \_\_\_\_\_
- \_\_\_\_\_

**15. DO YOU HAVE THE FINANCIAL RESOURCES NECESSARY TO FULFILL THE REQUIRMENTS OF THE PROPOSED CONTRACT?**  Yes  No

**16. HAVE THERE BEEN ANY COMPLAINTS OR REPORTS OF DEVIATION WITHIN THE PAST 3 YEARS FOR CONTRACT PERFORMANCE ISSUES ARISING OUT OF YOUR CONTRACTS WITH ANY FEDERAL, STATE OR LOCAL AGENCY?**  Yes  No

Date: \_\_\_\_\_

**STATE OF NEW YORK**  
Contractor Responsibility Questionnaire

Contract No. \_\_\_\_\_

**17. IF A NOT-FOR-PROFIT ORGANIZATION, ARE YOU UP TO DATE IN FILING REQUIRED REPORTS WITH THE NEW YORK STATE ATTORNEY GENERAL'S CHARITIES BUREAU PURSUANT TO EPTL §8-1.4 AND NEW YORK STATE EXECUTIVE LAW ARTICLE 7-A?**

- Yes     No
- N/A

State of \_\_\_\_\_ )  
   )ss:  
 County of \_\_\_\_\_ )

**CERTIFICATION:**

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions to make a determination regarding the award of a contract or approval of a subcontract; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may be punished as a crime under state and federal law and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

Name of Business	Signature of Officer or Individual
Address	Typed Copy of Signature
City, State, Zip	Title

Principal place of business if different from address listed above (include complete address):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
 Notary Public  
 Registration No:  
 State:



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

Attachment 6

**Guidelines Regarding Permissible Contacts During a  
Procurement and  
the Prohibition of Inappropriate Lobbying Influence**

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005 (collectively referred to as the “Lobbying Law”), makes major changes to the Legislative Law and State Finance Law relative to lobbying on government procurements. More specifically, the Lobbying Law creates two new sections in the State Finance Law: Section 139-j addresses the disclosure of “contacts” during the procurement process; and Section 139-k addresses the disclosure of contacts and the responsibility of Offerors<sup>2</sup> during the procurement process. The Lobbying Law applies to all procurements initiated on or after January 1, 2006. In this regard, a procurement means a contract or agreement involving an annual expenditure in excess of \$15,000 for a commodity, service, technology, public work, or construction; purchase, sale or lease of real property; or revenue contract.

In conformity with the Lobbying Law, during a procurement’s restricted period<sup>3</sup> the only Department employee(s) that the Offeror may “Contact” is/are the Department designated contact person(s) for that procurement. In this regard, “Contact” means any oral, written or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence a procurement. Exceptions to this rule include:

- submission of a written proposal in response to an RFP, IFB or any other solicitation method;
- submission of written questions as part of an RFP, IFB or other solicitation method where all written questions and written responses will be provided to all Offerors;
- participation in a pre-proposal or pre-bid conference scheduled as part of an RFP, IFB or other solicitation process;
- written complaints by an Offeror that the Department designated contact for a procurement fails to respond in a timely manner;
- negotiations with the Department following tentative award;
- contacts between designated Department staff and Offeror to request the review of a contract award; and
- communications with the Department regarding an appeal, protest or other review of a procurement, participation in an administrative or judicial proceeding regarding a procurement and complaints regarding a procurement made to the Attorney General, Inspector General, District Attorney, or State Comptroller.

An Offeror shall not, under any circumstances, attempt to influence a Department procurement in a way that violates or attempts to violate: Public Officers Law Section 73(5), relating to gifts intended to influence; or Public Officers Law Section 74, relating to the code of ethics for employees of state agencies.

An Offeror who contacts the Department regarding a procurement during the restricted period must be prepared to provide the following information: name, address, telephone number, place of principal employment and

<sup>2</sup> An Offeror is an individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts the Department about a procurement during the restricted period.

<sup>3</sup> The period of time commencing with the earliest written notice, advertisement or solicitation of a Request for Proposals “RFP”, Invitation for Bids “IFB”, solicitation of proposals or any other method for soliciting responses from Offerors intending to result in a procurement contract by the Department, and ending with the final contract award and approval by the Department, and OSC (if required).





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

Attachment 6

**Guidelines Regarding Permissible Contacts During a  
Procurement and  
the Prohibition of Inappropriate Lobbying Influence**

occupation of the person or organization making the contact, and whether the person/organization making the contact is the Offeror or is retained, employed or designated by or on behalf of the Offeror to appear before or contact the Department about the procurement. The Department's Report of Contact Form is attached as Form 1.

An Offeror that submits a proposal, bid or other response to a Department RFP, IFB or other solicitation method must:

- Affirm that it understands and agrees to comply with these guidelines regarding permissible contacts during a procurement and the prohibition of inappropriate lobbying influence. (The Offeror's Affirmation of Understanding and Agreement is attached as Form 2.);
- Certify that all information provided to the Department with respect to the Lobbying Law is complete, true, and accurate. (The Offeror's Certification of Compliance is attached as Form 3.);
- Disclose whether any governmental entity has, within the prior four years, found the Offeror non-responsible due to a violation of the Lobbying Law or the intentional provision of false or incomplete information. (Included in the Contractor Responsibility Questionnaire.)

Further, all Department procurement contracts will contain a provision authorizing the Department to terminate the contract in the event such Certification of Compliance is found to be intentionally false or incomplete.

Any alleged violations of the Department's guidelines or the Lobbying Law regarding permissible contacts during a procurement and the prohibition of inappropriate lobbying influence will be reported to the Department's Ethics Officer for investigation. If there is sufficient evidence to indicate the allegation may be true, the Department shall give the Offeror reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. At the Department's discretion, the opportunity to be heard may be provided either by giving the Offeror the opportunity to meet with the Department staff conducting the investigation or by convening a hearing before an impartial hearing officer at the Department's Albany office. In either case, a written report including findings, conclusions, and a recommended decision will be forwarded to the Commissioner or his or her designee for review and a final determination. A determination that an Offeror has knowingly and willfully committed such a violation may result in a finding that the Offeror and its subsidiaries are non-responsible and therefore ineligible for award of the procurement contract. A second determination of non-responsibility for such a violation within four years of the first such determination may render the Offeror and its subsidiaries ineligible to submit a bid or proposal or be awarded a procurement contract for four (4) years from the date of the second determination. The Department will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or debarments due to violations of the Lobbying Law.

If you require further guidance on the new Lobbying Law, you are encouraged to visit the Advisory Council on Procurement Lobbying website at

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html> where Frequently Asked Questions "FAQ's" adopted by the Council have been posted.



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

**Form 1**

**Report of Contact Regarding Procurement Pursuant to State  
 Finance Law §139-k**

**Instructions:**

State Finance Law §139-k(4) requires Agriculture and Markets' staff to make a written record of any "Contacts" made regarding a procurement during the procurement's "Restricted Period", which runs from the date bids are first solicited to the date of the contract's final approval. A "Contact" is any oral, written or electronic communication that a reasonable person would infer to be an attempt to influence the procurement. Additionally, staff must inquire and record whether the person that made the "Contact" was the Offeror or was retained, employed or designated on behalf of the Offeror to appear before or contact Agriculture and Markets. However, communications received from members of the State legislature, or legislative staffs, when acting in their official capacity, are not considered to be a "Contact" and shall not be recorded. A separate form must be completed for each permissible and impermissible "Contact" received, including each of multiple "Contacts" by a single person or Offeror.

To: Fiscal Management/Contracts \_\_\_\_\_  
 \_\_\_\_\_  
 (title of procurement)

From: \_\_\_\_\_ Date: \_\_\_\_\_  
 (name and title)

I was contacted by the below named individual regarding the above identified procurement.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Place of Principal  
 Employment: \_\_\_\_\_

Occupation: \_\_\_\_\_

Date(s) of Contact: \_\_\_\_\_

Form of Contact:  
 correspondence  in person  by telephone  electronic mail  other \_\_\_\_\_

Was the person making the Contact informed that the contact would be documented?  
 yes  no

Is the above-named person/organization the Offeror in this procurement?  
 yes  no

If no, was the above-named person/organization retained, employed or designated by the Offeror to:  
 - appear before Agriculture and Markets about the governmental procurement?  
 yes  no

- contact Agriculture and Markets about the governmental procurement?  
 yes  no



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

**Form 1**

Report of Contact Regarding Procurement Pursuant to State  
Finance Law §139-k

**Additional notes (optional):**

**This form should be completed and forwarded to Fiscal Management. Fiscal Management will maintain a record of all such contacts and will make it part of the procurement/contract record.**



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

**FORM 2**

**Offeror's Affirmation of Understanding and Agreement  
 Pursuant to State Finance Law §139-j(3) and §139-j(6)**

**Instructions:**

Pursuant to State Finance Law §§139-j and 139-k, this solicitation imposes certain procurement lobbying limitations. Offerors are restricted from making contacts during the procurement's "Restricted Period" (from the issuance of the solicitation document until the date of the contract's final approval by the State Comptroller) to other than designated staff, unless the contact falls within certain statutory exceptions ("permissible contacts"). Agriculture and Markets' employees are required to obtain certain information from Offerors and others whenever there is a contact about the procurement during the Restricted Period, and are required to make a determination of the Offeror's responsibility that addresses the Offeror's compliance with the statutes' requirements. Findings of non-responsibility result in rejection of contract award, and if an Offeror is subject to two non-responsibility findings within four years the Offeror also will be determined ineligible to submit a proposal on or be awarded a contract for four years from the date of the second non-responsibility finding. Further information about these requirements can be found at:  
<http://www.ogs.state.ny.us/aboutOGS/regulations/defaultAdvisoryCouncil.html>.

As a prerequisite for participating in this procurement, an Offeror must provide the following Affirmation of Understanding and Agreement to comply with these procurement lobbying restrictions in accordance with State Finance Law §§139-j and 139-k.

**Offeror Affirmation and Agreement**

The Offeror affirms that it understands the procurement lobbying requirements set forth in State Finance Law §§139-j and 139-k, and agrees to comply with the Agriculture and Markets' guidelines regarding permissible Contacts as required thereby.

Name of Offeror:		
By:		
	(Signature)	
Name:		
Title:		
Address:		
Date:		



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

**FORM 3**

Offeror's Certification of Compliance  
Pursuant to State Finance Law §139-k(5)

**Instructions:**

New York State Finance Law (SFL) §139-k(5) require that every contract award subject to the provisions of SFL §§139-k or 139-j shall contain a certification by the Offeror that all information provided to Agriculture and Markets with respect to SFL §139-k is complete, true and accurate.

At the time an Offer or Bid is submitted to Agriculture and Markets, the Offeror/Bidder must provide the following certification that the information it has and will provide to Agriculture and Markets pursuant to SFL §139-k is complete, true and accurate including, but not limited to, disclosures of findings of non-responsibility made within the previous four years by any State governmental entity where such finding of non-responsibility was due to a violation of SFL §139-j or due to the intentional provision of false or incomplete information to a State governmental entity.

**Offeror Certification**

*I certify that all information provided to the Department of Agriculture and Markets with respect to State Finance Law §139-k is complete, true and accurate.*

Name of Offeror:		
By:		
	(Signature)	
Name:		
Title:		
Address:		
Date:		