

INVITATION FOR BIDS

for

New York State Department of Agriculture and Markets

Plum Pox Virus Sample Analysis

IFB #0140

IFB Issued: April 22, 2016

Proposals Due: May 13, 2016

By:

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

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INVITATION FOR BIDS

New York State Department of Agriculture and Markets

IFB#0140: Plum Pox Virus Sample Analysis

1. INTRODUCTION

1.1 OVERVIEW

This Invitation for Bids (“IFB”) is issued by the New York State Department of Agriculture and Markets (“AGM” or “the Department”) to invite qualified bidders to submit proposals to analyze *Prunus* sp. leaves to detect Plum Pox Virus. The Plum Pox Virus is a pathogen of strict quarantine significance which damages stone fruit (peaches, plums, nectarines, etc.). It has been targeted for eradication by the United States Department of Agriculture– Animal & Plant Health Inspection Service, (USDA/APHIS).

AGM is responsible for conducting a survey of orchards, nurseries and other properties for the presence of Plum Pox Virus. AGM personnel collect leaf samples from *Prunus* sp. trees. These samples need to be screened via ELISA testing for the possible presence of the Plum Pox Virus. Leaves are collected during the active growing season between June 1st and October 1st with the majority of samples collected by September 1st. Samples must be processed within seven (7) days of collection. The laboratory analysis shall be in accordance with the terms and conditions set forth in this IFB and the United States Department of Agriculture – Animal & Plant Health Inspection Service Plum Pox Virus laboratory protocol, a copy of which is attached as Appendix 2.

1.2 IFB GOALS

The objective of this IFB is to retain a laboratory to analyze *Prunus* sp. leaves to detect Plum Pox Virus. Awardee will be responsible for obtaining and maintaining all required laboratory credentials and permits needed to test for and handle Plum Pox Virus.

1.3 ELIGIBLE BIDDERS

Any bidder that meets the minimum qualifications set forth in Section 3.3 of this IFB is eligible to submit a bid.

1.4 TERM

The contract resulting from this IFB will be for a five (5) year term. The contract is expected begin on May 20, 2016 and end on April 30, 2021.

1.5 IFB TIMELINE

IFB Posted	April 22, 2016
Questions regarding this IFB must be submitted by 3:00 PM local time:	May 3, 2016
A Question and Answer document will be posted to http://www.agriculture.ny.gov/RFPS.html no later than:	May 5, 2016
Bidder Response Due by 3:00 PM, local time, on:	May 13, 2016
Tentative Award Date	May 18, 2016

The Department intends to make one contract award from this IFB. This contract will require approval from the Office of the Attorney General of the State of New York and the Office of the State Comptroller of the State of New York before it becomes effective.

2. DESCRIPTION OF WORK TO BE PERFORMED:

2.1 SCOPE OF WORK

The Department desires to contract with one laboratory that can analyze *Prunus* sp. leaves to detect Plum Pox Virus using Enzyme-Linked Immunosorbent Assay (ELISA) kit testing. The laboratory must have the capacity to accept and process samples Monday through Friday from June 1 through October 1. The Department will attempt to manage weekly sample numbers to maintain a consistent number during the peak processing time of June 1st to September 1st, however the laboratory must have the ability to increase weekly processing up to 20%.

The Department has no obligation to submit any particular amount of samples for testing. The numbers included in the bid sheet are for evaluation purposes only. Actual numbers will vary. The Department will advise the laboratory of the total number of samples to be tested each year on or before May 1.

Fresh leaf samples will be shipped daily from Newfane, NY and/or Highland, NY and will arrive at the laboratory on Tuesday through Friday. All samples must be processed within 7 days of receipt.

The laboratory must have refrigeration available to maintain the quality of leaves awaiting processing. The integrity of samples must be maintained throughout the process and samples must be accurately tracked with a corresponding number.

The laboratory must provide weekly reports of samples processed and received in the previous week by close of business on Wednesday. Laboratory must notify the Department within two (2) hours of any ELISA positive or elevated results. Positive samples must be packaged with appropriate cold pack and forwarded via overnight package service, at the laboratory's expense, to the confirmatory lab at USDA-APHIS-PPQ Center for Plant Health Science and Technology (CPHST) in Beltsville, Maryland.

3. BID SUBMISSION

3.1 SUBMISSION TIMELINE

All bid submission documents required to be responsive for bid evaluation must be received by the Department no later than 3:00 PM, local time, on May 13, 2016 in order to be considered. All remaining forms and documents required to be completed after notification of selection is made shall be submitted to the Department by the selected Contractor prior to execution of the contract.

Any questions concerning this IFB must be received by 3:00 PM, local time, on May 3, 2016. Questions must be submitted in writing. Email is preferred and should be directed to Judy Giovannetti, the designated contact for this procurement, at procurement.info@agriculture.ny.gov. Please list "PLUM POX VIRUS SAMPLE ANALYSIS IFB#0140" in the subject line. In the alternative, questions may be mailed to: NYS Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, NY 12235 Attn: Judy Giovannetti (IFB#0140 "PLUM POX VIRUS SAMPLE ANALYSIS").

A Question and Answer document will be posted to the Department website at: <http://www.agriculture.ny.gov/RFPS.html> under "Current Funding Opportunities" no later than May 5, 2016. No individual written responses will be provided.

Any revisions to this IFB will be posted on the Department's website, under "Current Funding Opportunities" at <http://www.agriculture.ny.gov/RFPS.html>. All bidders are responsible for keeping informed of any revisions to this IFB. All questions and answers shall be incorporated into the IFB which will be part of the awarded contract. If you are unable to access the Department's website, please contact Judy Giovannetti at procurement.info@agriculture.ny.gov to arrange for alternate delivery. You may also contact Judy Giovannetti at the mailing address noted above.

3.2 SUBMISSION METHOD

Facsimiles or emailed copies are not acceptable. Materials received after the due date/time shall be returned unopened to the sender. No supplemental submissions or amendments to the bid response will be accepted thereafter.

Mail or hand deliver a bid response in one (1) package containing the following two (2) separately labeled envelopes:

1. Minimum Qualifications and Required Forms and Assurances: Mail the original plus two (2) paper copies of the Minimum Qualifications and Required Forms and Assurances in a separate envelope labeled "IFB #0140 Plum Pox Virus Sample Analysis - Minimum Qualifications and Required Forms and Assurances - Do Not Open" and include:

- All Forms and Assurances located in the Submission Documents packet (which follows Appendix 2), including original signatures, where necessary.
 - Submission Documents Checklist
 - Minimum Qualifications and Mandatory Contract Requirements Certification Form (Original Signatures)
 - Non-Collusive Bidding Certification (Original Signatures)
 - MacBride Nondiscrimination Certification Form (Original Signatures)
 - Procurement Lobbying Law Forms (Original Signatures)
 - Substitute Form W-9, if SFS Vendor ID needed (Original Signatures)

2. **Bid Form:** Original plus two (2) paper copies of the completed Bid Form Cost Proposal located in the Submission Documents packet (which follows Appendix 2), should be mailed in a separate envelope labeled “IFB #0140 Plum Pox Virus Sample Analysis – Bid Form Cost Proposal - Do Not Open” and must include the following outlined below:

- Bid Form (Original Signatures)

To the following address:

New York State Department of Agriculture and Markets
Fiscal Management
10B Airline Drive
Albany, New York 12235
ATTN: Judy Giovannetti, IFB#0140

3.3 MINIMUM QUALIFICATIONS

To be considered, the laboratory must:

1. Use Enzyme-Linked Immunosorbent Assay (ELISA) kit testing.
2. Follow USDA-APHIS Center for Plant Health Science and Technology (CPHST) Plum Pox Virus laboratory protocol.
3. Meet USDA-APHIS laboratory credentialing, the National Plant Pathogen Laboratory Accreditation Program (NPPLAP) administered by USDA-APHIS CPHST
4. Be able to reliably receive morning UPS Next Day Delivery from Newfane, New York and Highland, New York.

3.4 MANDATORY CONTRACT REQUIREMENTS

Each bidder must certify that, if selected, the bidder will meet the following requirements:

- 1) The selected Contractor will have full control of services provided pursuant to this engagement and assumes total responsibility for financial loss, accident, injury, or death that may occur as a result of the services provided. The selected Contractor will indemnify and hold harmless the State of New York, the Department, its officers and employees, from all claims, demands, damages, expenses, liability or obligation for damages, loss or injury to, or of, any person or property arising out of the acts of the selected Contractor, its agents, servants, employees, and those acting for or on its behalf. Such indemnity shall not be limited by reasons of any insurance coverage provided.
- 2) The selected Contractor will obtain and maintain the following policies, or equivalent, from an insurance company authorized to do business in the State of New York:
 - Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such insurance shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages, with no modification to the contractual liability coverage provided therein. Coverages shall include liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract). If such insurance contains an aggregate limit, it shall apply separately to each location.

- The above policy shall be accompanied by additional insured endorsement (Acord 101) naming the New York State Department of Agriculture and Markets as an additional insured.
 - Worker’s Compensation and Disability Insurance – Statutory limits.
- 3) The selected Contractor agrees to comply with “Appendix A, Standard Clauses for New York State Contracts,” a copy of which is attached to this IFB as Appendix 3.

3.5 BID FORM

A five-year contract will be awarded. A fully completed and properly executed Bid Form (See Submission Documents Attachment 1) must be submitted for this IFB. The Bid Form may not be altered in any way.

4. EVALUATION

4.1 CONSIDERATION

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

4.2 DETERMINATION OF BID AWARD

The contract will be awarded to the qualified, responsible bidder offering the lowest price on the Bid Form for the five year term of the Contract.

In the event of a tie, the contract will be awarded to the bidder that is closest to Newfane, New York.

5. CONSIDERATIONS RELATED TO THIS PROCUREMENT

5.1 DEPARTMENT’S RESERVATION OF RIGHTS

The Department reserves the right to:

- Reject any or all proposals received in response to the IFB;
- Withdraw the IFB at any time, at the agency’s sole discretion;
- Make an award under the IFB in whole or in part;
- Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the IFB;
- Seek clarifications and revisions of proposals;
- Use proposal information obtained through site visits, management interviews and the State’s investigation of a bidder’s qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency’s request for clarifying information in the course of evaluation and/or selection under the IFB;
- Prior to the *bid opening*, amend the IFB specifications to correct errors or oversights, or to supply additional information, as it becomes available;

- Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent IFB amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the bidders;
- Waive any requirements that are not material;
- Negotiate with the successful bidder within the scope of the IFB in the best interests of the State;
- Conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening;
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; and
- Make all interpretations of the meaning and intent of the IFB and resulting contract and the Department's interpretation is final.

5.2 NOTIFICATION OF AWARD

The Department will notify the selected bidder verbally, followed by a written confirmation. Unsuccessful bidders will be notified in writing by the Department within ten business days after the award.

5.3 DEBRIEFING PROCEDURES

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful bidder has the right to a debriefing. An unsuccessful bidder must request a debriefing within five (5) business days of receiving a notice of non-award from the Department. Bidders may request a debriefing letter on the selection process regarding this procurement by submitting a written request to Judy Giovannetti at:

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

The Fiscal contact person will make arrangements with program staff to provide a written summary of the proposal's strengths and weaknesses, as well as recommendations for improvement. Within ten (10) business days of receipt of the request, the program staff will issue a written debriefing letter to the bidder.

5.4 BID PROTEST PROCEDURES

Bidders who receive a notice of non-award may protest the award decision subject to the following:

1. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by the Department
2. The protest must be filed within ten (10) business days of receipt of a debriefing letter, or ten (10) business days of receipt of the notice of non-award, whichever is later. The protest letter must be filed with Judy Giovannetti at:

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

3. Fiscal Management will convene a review team that will include at least one staff member from each of the Department's Counsel's Office, Fiscal and the Program Division. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the bidder with written notification of the review team's decision within fourteen (14) business days of receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval, and Fiscal Management will advise OSC that a protest was filed.
4. Fiscal Management in consultation with Counsel's Office may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts. An unsuccessful bidder may also protest the award by filing a protest, in writing, with the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, New York 12236. More information on the Office of the State Comptroller's (OSC) Contract Award Protest Procedures can be found in OSC's Guide to Financial Operations (GFO), Chapter XI.17, available on the internet at <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

5.5 NEW YORK LAW

The provisions of New York law shall apply to the contract and to all claims, actions and other proceedings arising out of the contract.

5.6 REQUIRED APPROVALS

Any contract award resulting from this solicitation will be subject to the approval of the Office of the Attorney General of the State of New York and the Office of the State Comptroller of the State of New York.

5.7 VENDOR RESPONSIBILITY AND NYS VENDOR ID

Prime Contractors:

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, the Department must make an affirmative responsibility determination. The factors to be considered include: legal authority to do business in New York State; integrity; capacity- both organizational and financial; and previous performance. Before an award of \$100,000 or greater can be made to a covered entity, the entity will be required to

complete and submit a Vendor Responsibility Questionnaire. Public Authorities, BOCES, public colleges and universities are some of the exempt entities. For a complete list, see: http://www.osc.state.ny.us/vendrep/resources_docreq_agency.htm

All bidders must fully and accurately complete the Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"). All bidders acknowledge that the Department's execution of the contract will be contingent upon the Department's determination that the bidder is responsible, and that the Department will be relying upon the bidder's responses to the Questionnaire in making that determination. If it is found by the Department that a bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, the Department may terminate the contract by providing ten (10) days written notification to the Contractor. In no case shall such termination of the contract by the Department be deemed a breach thereof, nor shall the Department be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

NOTE: Bidders are encouraged to file the Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us.

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

Subcontractors:

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a Department vendor responsibility review are required for a subcontractor where:

- the subcontractor is known at the time of the contract award;
- the subcontractor is not an entity that is exempt from reporting by OSC; and
- the subcontract will equal or exceed \$100,000 over the life of the contract

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

5.8 COST LIABILITY

The State of New York and the Department assume no responsibility or liability for the costs incurred by the Bidders in preparing and submitting their bids in response to this solicitation.

5.9 FREEDOM OF INFORMATION

The selected Contractor's bid response and any contract resulting from this solicitation are subject to the provisions of Article 6 of New York State Public Officers Law, the Freedom of Information Law (NY FOIL). It is the responsibility of the Bidder to designate which components of the bid response

are proprietary business information to be withheld from disclosure. A bidder may not designate its entire bid response as confidential, proprietary or copyrighted.

5.10 PROCUREMENT LOBBYING LAW

Pursuant to State Finance Law Sections 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Department of Agriculture and Markets and an offerer/bidder during the procurement process. (See Attachment 5 -- "Summary of the Department's Policy on State Finance Law Section 139-j and Section 139-k"). An offerer/bidder is restricted from making contacts from the earliest written notice, advertisement or solicitation of the IFB through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, are identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offerer/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 offerer/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 Bid:

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

5.11 DIESEL EMISSIONS REDUCTION ACT 2006

In 2007 New York State passed legislation establishing the Diesel Emissions Reduction Act 2006 (DERA). This Act amended the Environmental Conservation Law (ECL) by adding Section 19-0323 which requires the use of best available retrofit technology (BART) and ultra low sulfur diesel fuel (ULSD) for heavy duty vehicles owned or operated by, including on behalf of, state agencies and state or regional public authorities. The Department has promulgated regulations (6NYCRR Part 248) to provide guidance on provisions of the law. The regulations may be found on the Department's website at: <http://www.dec.ny.gov/regs/2492.html>.

The Contractor will be required to certify that they are in compliance with the provisions of ECL Section 19-0323 by providing the necessary reporting information and attesting to the following:

The Contractor certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) Section 19-0323, to be used under this Contract, will comply with the specifications and provisions of ECL Section 19-0323

and the regulations promulgated thereto, which requires the use of Best Available Retrofit Technology (BART) and Ultra Low Sulfur Diesel (ULSD), unless specifically waived by the Department. Qualifications for a waiver under this law will be the responsibility of the Contractor.

5.12 IRAN DIVESTMENT ACT REQUIREMENTS

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012.

By entering into this Agreement, the Contractor certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on the Agreement any subcontractor that is identified on the Prohibited Entities List. The Contractor agrees that should it seek to renew or extend this Agreement, it must provide the same certification at the time the Agreement is renewed or extended. The Contractor also agrees that any proposed assignee of the Agreement will be required to certify that it is not on the Prohibited Entities List before the Department may approve a request for assignment of Agreement.

During the term of the Agreement, should the Department receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the Department will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Department shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

The Department reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Agreement, and to pursue a responsibility review with the Contractor should it appear on the Prohibited Entities List hereafter.

6. REQUIRED ASSURANCES

6.1 SUBMISSION DOCUMENTS

The documents listed below are included in the **Submission Documents** packet, which follows. All documents requiring signature must be signed by an authorized representative of the Bidding entity. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful bidder and the New York State Department of Agriculture and Markets. Please refer to Section 3.2 of this IFB, “Submission Method” for more information on how to package your proposal. The following forms must be completed and returned with the Bid Response:

- **Bid Form** (Signature Required - the form is included in the **Submission Documents as Attachment 1**)

- **Mandatory Requirements Certification Form** (Signature Required - the form is included in the **Submission Documents as Attachment 2**)
- **Non-Collusive Bidding Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 3**)
- **MacBride Certification** (Signature Required - the form is included in the **Submission Documents as Attachment 4**)
- **Offerer Disclosure of Prior Non-Responsibility Determinations (Procurement Lobby Law Forms)** (Signature Required - the form is included in the **Submission Documents as Attachment 5**)
- **Vendor Responsibility** (Signature Required - the form is included in the **Submission Documents as Attachment 6**)
- **Substitute W-9 Form to obtain SFS ID** (Signature Required - Return if SFS Vendor ID is requested – the form is included in the **Submission Documents as Attachment 7**)

6.2 CONTRACT DOCUMENTS AND REQUIREMENTS

The successful bidder will be required to execute a contract with the Department, a copy of which is attached to this IFB as Appendix 2. By submitting a bid, bidder agrees to be bound by all terms and conditions in the Department’s contract including Appendix A “Standard Clauses for New York State Contracts” (January 2014) attached to this IFB as Appendix 3.

7. RECOMMENDED SUBMISSIONS

The following forms are not required to be submitted with the bid response. Nevertheless, bidders are encouraged to submit these forms in order to expedite contract execution if the bidder is awarded the contract.

AGM Substitute Form W-9

Any payee/vendor/organization receiving Federal and/or State payments from the Department must complete the Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized vendor file.

The Department is using the Substitute Form W-9 to obtain certification of a vendor’s Tax Identification Number in order to facilitate a vendor’s registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

Workers’ Compensation Coverage and Debarment

New York State Workers’ Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of vendors that violate certain sections of WCL. The WCL requires, and has required since introduction of the law in 1922, the heads of all municipal and State entities to ensure that businesses have appropriate workers’ compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

Workers’ compensation requirements are covered by WCL Section 57, while disability benefits are covered by WCL Section 220(8). The Workers’ Compensation Benefits clause in Appendix A – STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS states that in accordance with Section 142 of the State Finance Law, a contract shall be void and of no force and effect unless the Contractor provides and maintains coverage during the life of the contract for the benefit of such employees as are required to be covered by the provisions of the WCL.

Under provisions of the 2007 Workers' Compensation Reform Legislation (WCL Section 141-b), any person, or entity substantially owned by that person: subject to a final assessment of civil fines or penalties, subject to a stop-work order, or convicted of a misdemeanor for violation of Workers' Compensation laws Section 52 or 131, is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each violation. The ban is five years for each felony conviction.

PROOF OF COVERAGE REQUIREMENTS

The Workers' Compensation Board has developed several forms to assist State contracting entities in ensuring that businesses have the appropriate workers' compensation and disability insurance coverage as required by Sections 57 and 220(8) of the WCL. *Please note – an ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.*

Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a State contract submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the Contractor and submit to OSC to prove the Contractor has appropriate workers' compensation insurance coverage:

- **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund; or
- **Form SI-12**– Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

To comply with coverage provisions of the WCL regarding disability benefits, the Workers' Compensation Board requires that a business seeking to enter into a State contract must submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the Contractor and submit to OSC to prove the Contractor has appropriate disability benefits insurance coverage:

- **Form DB-120.1** - Certificate of Disability Benefits Insurance; or
- **Form DB-155**- Certificate of Disability Benefits Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME: New York State Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235 as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder)

For additional information regarding workers' compensation and disability benefits requirements, please refer to the New York State Workers' Compensation Board website at: <http://www.wcb.ny.gov/content/main/Employers/busPermits.jsp>. Alternatively, questions relating to either workers' compensation or disability benefits coverage should be directed to the NYS Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

Sales and Compensating Use Tax Certification (Tax Law § 5-a)

Tax Law § 5-a requires Contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance (“DTF”) that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the Contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, Contractors must certify to DTF that each affiliate and subcontractor of such Contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected bidder must file a properly completed Form ST-220-CA (with OSC as the Contracting Agency within 48 hours of notification of selection for award) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the New York State Department of Taxation and Finance’s website, available through this link: www.tax.ny.gov/pdf/publications/sales/pub223.pdf. Forms are available through these links:

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

Please note that although these forms are not required as part of the bid submissions, the Department encourages bidders to include them with their bid submissions to expedite execution of the contract if the bidder is awarded the contract. The above forms are required to be completed and submitted after notification of selection is made and prior to signing the contract.

Consultant Disclosure

State contractors are required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the Contractor by the State as compensation for work performed by these employees. This includes information on any persons working under any subcontracts with the state contractor.

The definition of contracts for consulting services includes any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

Bidders should complete Form A: “State Consultant Services Contractor’s Planned Employment From Contract Start Date Through the End of the Contract Term” included in the Submission Documents.