

**Invitation for Bid**

**Laboratory Testing  
of Gasoline and Diesel Fuel  
and Related Support**

**for**

**The New York State  
Petroleum Product Quality  
Assurance Program**

**IFB Issued: January 15, 2013**  
**Mandatory Pre-proposal Conference Registration: January 31, 2013**  
**Mandatory Pre-Proposal Conference: February 7, 2013**  
**Proposal Due: February 21, 2013**

**By**

**State of New York  
Bureau of Weights and Measures  
Department of Agriculture and Markets  
10B Airline Drive  
Albany, NY 12235  
(518) 457-3146**



STATE OF NEW YORK  
DEPARTMENT OF AGRICULTURE AND MARKETS

**Invitation for Bid**  
**PETROLEUM PRODUCT QUALITY ASSURANCE PROGRAM**

**BID SUBMISSION REQUIREMENTS**

Each bidder must attend a pre-proposal conference and submit a bid package consisting of four (4) copies of the technical and financial proposal; one (1) copy each of the Quality Manual and the Audited Financial Statement; and an original of each of the other required documents listed on page 12 of this Invitation for Bids. Packages **MUST BE RECEIVED** in the Department's Albany Office not later than 4:00 P.M. EST on February 21, 2013. Proposals received after the scheduled date and time will not be accepted. To ensure that each bid is handled correctly upon receipt and remains unopened until that date, bidders shall clearly mark each package of materials submitted with the following: "**Petroleum Quality IFB.**" This marking may appear either on the shipping container or on a secured package inside the shipping container. Proposal packages shipped or mailed shall be addressed to:

Petroleum Quality IFB  
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. This is the same location as the pre-proposal conference. Proposals will not be accepted via FAX or email.

**Proposals will not be accepted from bidders affiliated with petroleum product producers, refiners, dealers, marketers or any entity subject to the control of any such person.**

**QUESTIONS CONCERNING THE IFB**

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

Mike Sikula, Director  
Bureau of Weights and Measures  
NYS Department of Agriculture and Markets  
10B Airline Drive  
Albany, New York 12235  
FAX: (518) 457-5693  
Email: [mike.sikula@agriculture.ny.gov](mailto:mike.sikula@agriculture.ny.gov)

All questions shall be submitted in writing (facsimile or e-mail will be accepted) to Mr. Sikula by 4:30 P.M. EST February 12, 2013. Bidders should note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the IFB, answers to those questions (including questions from the pre-proposal conference), as well as any addenda to the IFB, will be posted in the "Funding Opportunities" section of the Department's website, [www.agriculture.ny.gov](http://www.agriculture.ny.gov), along with the electronic version of this IFB. Questions and responses will be posted on the website by February 14, 2013. If you are unable to access the website, please contact Mr. Sikula to arrange for alternate delivery. All questions and answers shall be incorporated into this IFB as a formal addendum.

## MANDATORY PRE-PROPOSAL CONFERENCE

The Department will hold a mandatory pre-proposal conference at 10:30 AM EST on February 7, 2013, in the Horticulture Room of the Department of Agriculture and Markets, 10B Airline Drive, Albany, NY. The purpose of this conference is to brief bidders on the present program and answer questions that interested parties may have regarding the IFB.

Proposals will only be accepted from firms that register for and attend this conference. Questions and answers from this conference will be posted on the Department's website by February 19, 2013.

**Potential bidders shall notify the Department by 4:30 PM EST on January 31, 2013 of their intent to attend by submitting the attached Registration Form (Attachment 2) as instructed.** This notification will permit the Department to prepare handout materials for all participants.

*Proposals will only be accepted from vendors that attended this conference.*

## BACKGROUND AND PURPOSE

The New York State Department of Agriculture and Markets is soliciting bids for the laboratory testing of petroleum products, and associated support, to continue a Petroleum Product Quality Assurance Program pursuant to Agriculture and Markets Law Article 16 sections 192-a and 192-c. The program has been in operation since 1991. Under this program, the Department regulates petroleum products kept, offered or exposed for sale within New York State. The test results are also used to provide data on Clean Air compliance to the Department of Environmental Conservation (DEC) under the terms of a Memorandum of Understanding.

The Department is seeking bids for an initial 12-month contract slated to begin no sooner than April 1, 2013. Any contract awarded will contain a provision authorizing renewal or extensions of the contract at the Department's option for up to three, additional 12-month periods.

Provided funding is available, the Department plans to continue its testing program at sampling levels slightly less than fiscal year 2011/2012. The main focus of the Department's current program is motor fuels, e.g. gasoline and diesel fuel. The projected workload for gasoline includes approximately 9,430 samples from retail stations and 3,670 samples from distribution terminals. The projected workload for diesel fuel includes approximately 1,200 samples from retail stations and 800 samples from distribution terminals. The Department may alter the sampling levels at any time during the contract period at its discretion.

The IFB also covers limited tests on biofuels and heating oil's. The Department will be including tests associated with biofuels although the level of testing is yet to be determined. The products tested will include biodiesel, blendstock ethanol, and E85/E75. Tests on heating oil's will be at the request of the Department of Environmental Conservation.

The contractor will collect the samples from the Department and municipal inspectors at designated sites on major highways around the State. The municipalities include 57 counties and three cities (60 total). After collection, the contractor must analyze the gasoline samples using one of two test protocols and the diesel fuel using one test protocol. The contractor will use one test protocol for each biofuel. In addition, the Department may request retests of octane on gasoline samples and follow-up tests for cetane number and/or cold flow properties on diesel fuel samples (performed on the original sample).

Each sample submitted to the contractor will be identified by sample number, product name, inspector ID, and jurisdiction ID. Product names will include gasoline, diesel fuel, heating oil, biodiesel, or ethanol. Ethanol will include both blendstock ethanol and E85 products. No other information regarding the sample

will be provided to the contractor. There will be no phase-in period and the contractor is expected to provide the services requested in all details on the start date of the contract.

The Department will devise procedures in cooperation with the contractor to designate which standard protocol will be performed on any given sample. The analysis must be completed and the results reported in a format acceptable to the Department within three business days following receipt of the sample. The contractor must report the test results of all samples to the Department electronically and provide formal written reports on request. In addition, the test results from retail samples must be reported to the municipality taking the sample via email where available or by FAX or other means where email is unavailable.

Subcontracting of any portion of the services required by this IFB shall not be permitted without the expressed prior written approval of the Department. Bidders wishing to use subcontractors must include, as part of their proposal, a complete description of the proposed subcontractor, its key personnel, its location, the services it will provide, and its qualifications to provide such services. In addition, any subcontractor providing laboratory services must meet all the qualifications listed in this IFB and must provide documentation of its quality management system and its internal and external control programs to demonstrate ability to perform the services required.

### **SAMPLE COLLECTION**

The contractor shall provide collection services to pick up the samples from the municipal and Department officials throughout the State. Collection sites will be assigned by the Department at locations convenient to the following major highways: I-90, I-87, I-88, I-81, I-495, Route 17(186), etc. The Department will prepare monthly pickup schedules in cooperation with the contractor. The courier will not be asked to collect more than 1,000 lb of flammables (gasoline, E85, ethanol) on any pickup. The contractor must establish and provide evidence of sample integrity, from the time of sample pickup until completion of the test at the laboratory.

The contractor shall provide and deliver replacement fuel sampling equipment meeting ASTM D 4057 and/or Federal EPA requirements (e.g. 40 CFR 80 Appendix D) to the municipal and Department officials. This will include not more than 25 brass, nozzle extender tubes for RVP sampling to replace equipment that is lost or damaged during the term of the contract. Deliveries may be made as part of the sample collection service, directly to the municipal or Department officials.

The contractor shall provide suitable, DOT approved, one gallon sample containers to the municipal and Department officials for collection and transport of all gasoline and diesel fuel samples. Suitable 4 fl oz containers shall be provided for fuel oil samples and agreement will be made on the size and type of container used for each biofuel. These containers may be new, or may be reusable, provided the contractor guarantees there will be no sample contamination with reuse. The used sample containers remain the property of the contractor. Deliveries may be made as part of the sample collection service, directly to the municipal or Department officials.

The contractor shall provide appropriate sample security seals to provide evidence of sample tampering in a form acceptable to the Department. Deliveries may be made as part of the sample collection service, directly to the municipal or Department officials. The contractor shall also provide suitable, serially numbered, identification tags to uniquely identify each sample (now using bar code tags that can be scanned). The Department shall specify the range of identification numbers to be used (presently using format GXXXXXX for gasoline and ethanol and DXXXXXX for diesel fuel, biodiesel, and fuel oil). Ethanol and biodiesel will have additional stickers to identify the test protocol. Deliveries of ID tags shall be made to the Department of Agriculture and Markets, Bureau of Weights & Measures, 10B Airline Drive, Albany, New York 12235.

## TEST PROTOCOLS

GASOLINE - Each sample of gasoline will be designated for testing for octane or for octane and other parameters using the protocols below. The Department may request retests on selected samples for octane using Protocol 1. These retests are performed on the original sample.

### Protocol: Gas Octane

<u>Description</u>	<u>Test Method</u>
Research Octane Number	ASTM D 2699
Motor Octane Number	ASTM D 2700;
Anti-knock Index (R+M)/2 Octane	ASTM D 4814 (average of above tests)

### Protocol: Gas Full (Octane and Other Parameters)

<u>Description</u>	<u>Test Method</u>
Research Octane Number	ASTM D 2699
Motor Octane Number	ASTM D 2700
Anti-knock Index (R+M)/2 Octane	ASTM D 4814 (average of above tests)
Distillation	ASTM D 86
Driveability Index	ASTM D 4814 (calculated from Distillation data)
Sulfur	ASTM D 2622
Benzene	ASTM D 3606
Oxygenates	ASTM D 4815* or GC-OFID
Vapor Pressure	ASTM D 5190 or D 5191
API Gravity	ASTM D 4052 or D 1298
Temperature - V/L=20	ASTM D 4814 (Procedure X2.2)

\*This method also requires measurement of relative density of the gasoline by ASTM D4052 or D1298. The contractor must maintain correlation of this method to the GC-OFID method or, in the future, demonstrate accuracy using performance based quality assurance programs accepted by EPA per 40 CFR 80.46.

DIESEL FUELS - Each sample of diesel fuel will be tested using the standard tests listed below. The Department may request separate follow-up tests on selected samples for cetane number or CFPP. These follow-up tests are performed on the original sample.

### Protocol: Diesel Fuel

<u>Description</u>	<u>Test Method</u>
Flash Point	ASTM D 93
Distillation	ASTM D 86
API Gravity	ASTM D 287 or D 1298
Cetane Index	ASTM D 976
Aromatics	ASTM D 1319
Sulfur	ASTM D 7039 or D 5453

### Protocol: Diesel Fuel - Cetane Number

<u>Description</u>	<u>Test Method</u>
Cetane Number	ASTM D 613

### Protocol: Diesel Fuel - CFPP (P/F at a specified 10<sup>th</sup> percentile minimum temperature)

<u>Description</u>	<u>Test Method</u>
Cold Flow Properties	ASTM D 6371

**Protocol: Fuel Oils – (sulfur only)**

<u>Description</u>	<u>Test Method</u>
Sulfur	ASTM D 2622 or D5453 or D7039

**Protocol: Bio-Diesel (B100)**

<u>Description</u>	<u>Test Method</u>
Flash point	ASTM D 93
Water and sediment	ASTM D 2709
Total glycerin	ASTM D 6854
Free glycerin	ASTM D 6854
Acid number	ASTM D 664

**Protocol: Ethanol (Denatured and E85/E75)**

<u>Description</u>	<u>Test Method</u>
Ethanol content	ASTM D 5501
Water content	ASTM E 1064

Add-on: Hand blending of RBOB or CBOB and ethanol - There are currently terminals in New York State that blend ethanol using a two or three-component system. Ethanol blends are created at the rack when loading the tanker truck. Generally, ethanol is added to an RBOB (Reformulated Blendstock for Oxygenate Blending) or CBOB (Conventional Blendstock for Oxygenate Blending) to produce a finished gasoline. The Department does not normally sample the finished gasoline from tanker trucks. Instead, the Department will sample the blending products and have the contractor create an equivalent finished product using hand blends to the terminals formulas. The Department will provide the contractor with the formulas and there will be a per sample charge to make the hand blend.

Example of a two-component blend: The Department supplies an RBOB sample along with a sample of ethanol, and instructs the contractor to blend 2700 ml RBOB with 300 ml ethanol. Example of a three-component blend: The Department supplies two CBOB samples along with a sample of ethanol, and instructs the contractor to blend 666 ml CBOB (1) with 2,034 ml CBOB (2) and 300 ml ethanol. The add-on costs will cover the additional time to create the blend and additional sample container to hold the blended sample.

Add-on: Upgrade of Gasoline Octane to Gasoline Full - The Department will also negotiate in the contract a provision to upgrade a Gasoline Octane protocol to a Gasoline Full protocol on a sample that was already logged and tested using the Gasoline Octane protocol. The Department recognizes that vapor pressure results may be affected because the sample container had already been opened to run the octane tests. The add-on costs will cover the additional tests and the additional administrative work required to pull the sample from storage, re-enter the sample in the contractor's computer system, create a new test sheet, and issue an amended report including both old and new data to both New York State and the municipality.

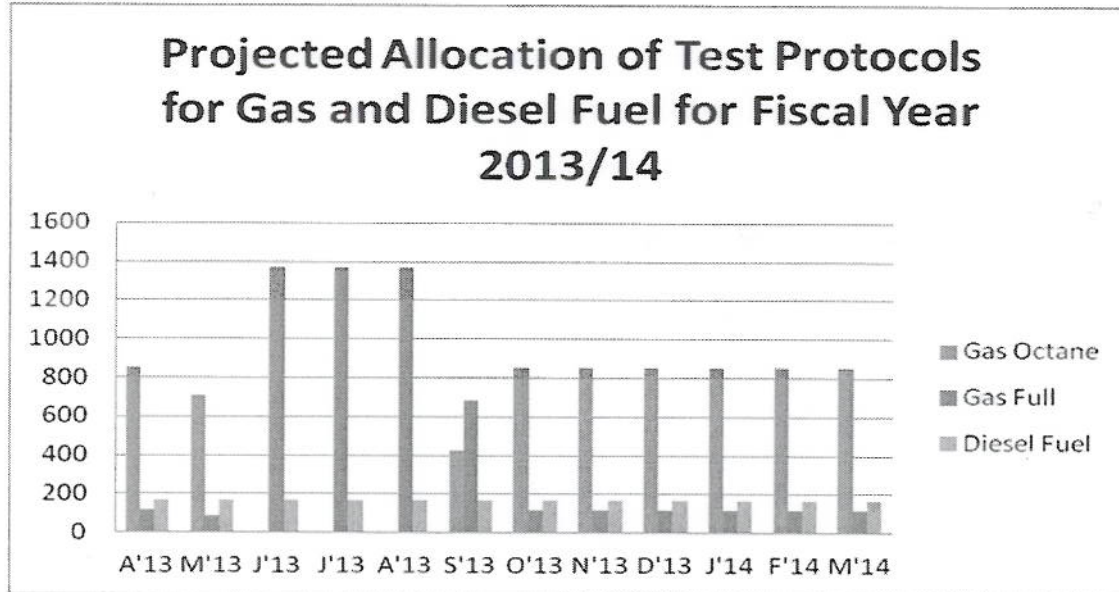
The Department may modify at any time any test protocol or portion thereof. If such modification results in a different cost to the contractor, such differences shall be resolved through negotiation between the contractor and the Department and shall be reflected in the price paid for the tests.

**Projected Allocation of Test Protocols**

The total number of samples projected for each protocol is 7,100 gas octane 5,700 gas full, and 2,000 diesel fuel. The Department is projecting to test 80 biodiesel samples in State Fiscal Year 2012/13 and 50 ethanol samples. It is anticipated that about 40 diesel fuel samples will be tested for CFPP during the months of December – February of each year. These tests will be performed on selected diesel fuel samples that have already been tested under the Diesel Fuel protocol. The fuel oil sulfur tests are not expected to exceed 50 per year. Hand blends for gasoline are projected at 1200 per year.

As depicted in the Chart A below, the ratio of gas octane to gas full protocols varies with seasonal requirements and environmental control periods. The number of retests for octane and follow-up tests for cetane number will be dependent on failure rates. Octane retests are not expected to be above 400 per year and cetane number follow-up tests are not expected to be over 25 per year. The Department had 99 Octane retests tested and no Cetane tests done in SFY 2011/12, the last year in which complete data was available.

**CHART A**



The two charts below show a comparison between the projected number of samples versus the actual number of samples taken for State Fiscal Year 2011-2012. Chart B below shows the projected number of gasoline samples versus the actual number of samples tested beginning April 1, 2011 and ending March 31, 2012. The total number of samples projected for the year was 16,300 while 14,315 samples were actually taken. The chart includes both gas full tests and gas octane tests.

**CHART B**

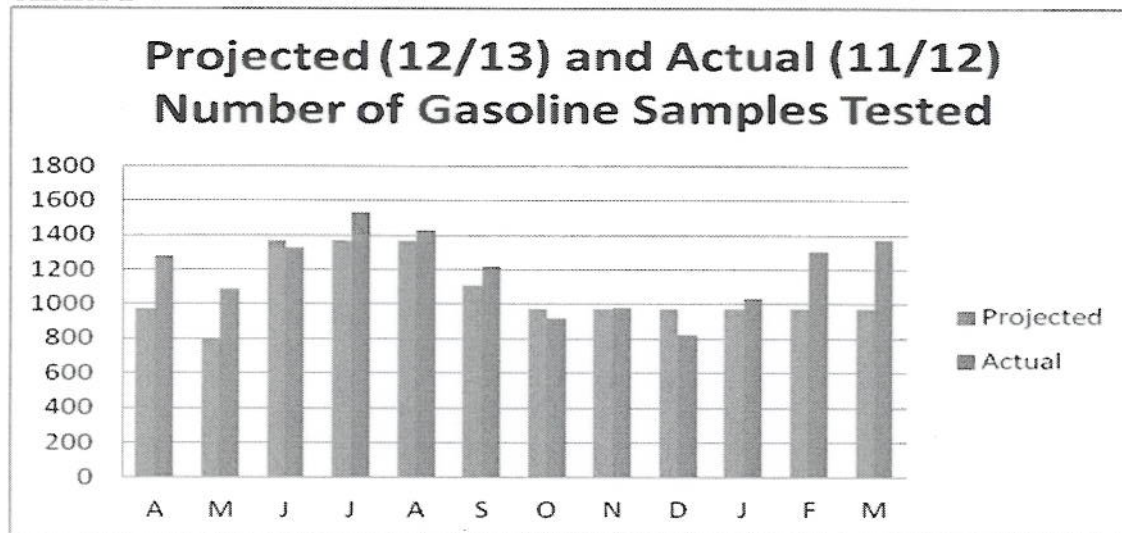
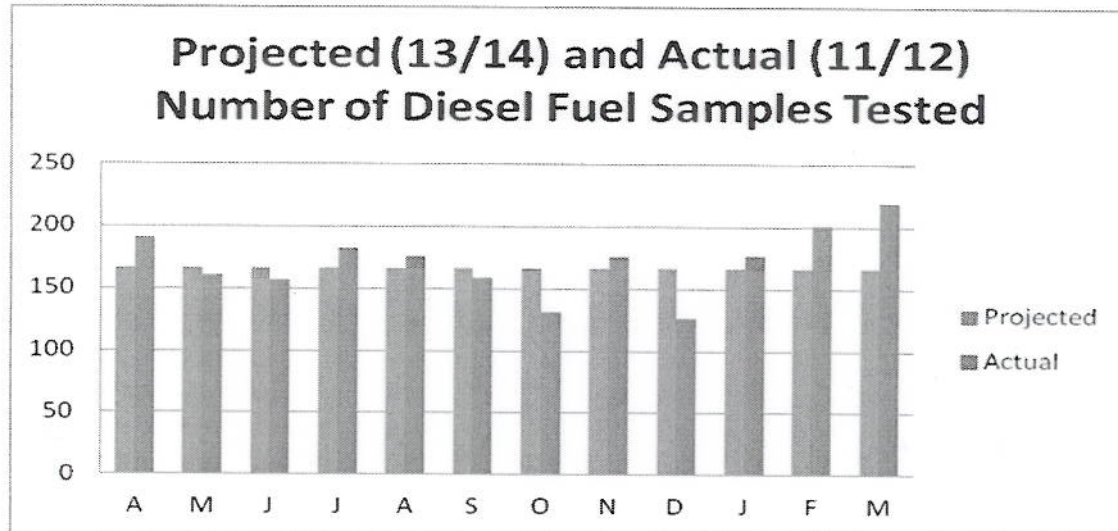


Chart C below shows the projected number of diesel samples versus the actual number of samples tested beginning April 1, 2011 and ending March 31, 2012. The total number of samples projected for the year was 2,200 while 2,079 samples were actually taken. The chart does not include Biofuel samples since the program has not yet expanded to those products.

CHART C



### DATA COMPILATION AND TRANSMISSION

The contractor shall maintain records of all tests performed under this contract, including copies of log books, printed reports from the instruments, and electronic media to support any enforcement action by the Department or municipal officials. These shall be maintained for a term as described in Appendix A.

The contractor shall report the results to the Department for each sample submitted in an acceptable electronic format not later than three (3) business days after the contractor receives the samples. The contractor shall report results of octane retests requested by the Department, not later than three (3) business days after the contractor receives the request. For follow-up tests such as diesel cetane and CFPP, the contractor shall report results as requested by the Department, not later than five (5) business days after the contractor receives the request.

The contractor shall incorporate the test results in an ASCII space delimited text file for transmission to the Department. The contractor shall send the ASCII text files containing the results to the Department via email to [melodie.howarth@agriculture.ny.gov](mailto:melodie.howarth@agriculture.ny.gov). The contractor shall not be considered tardy in transmission of data if the Department's email connection is inaccessible. The results for the test protocol CFPP as well as water and sediment tests for gasoline and diesel fuel will be reported as Pass/Fail by using values of zero (0) for pass and one (1) for fail in the ASCII text file. Also, unusual samples that cannot be tested due to water, mud, sediment or for any other reason should be reported in a separate email and not in the ASCII text file.

Listed below is a sample format for sending the ASCII space delimited text file for data transfer to the State Office. One record is sent per result with up to 8 results per diesel sample and either 3 or 22 results per gasoline sample. Three additional records will be sent for an octane retest and an appropriate number of records for each test specified in the protocols for biofuels.



**Sample Format for ASCII Delimited Text File for Emailing Data**  
**Format for each row: Sample #; Inspector; Juris; Test Type; Lab #; test date; test; result**

```
"D060742" "043" "05" "O" 06/13/2009 "871820" "D01" 46.7
"D060742" "043" "05" "O" 06/13/2009 "871820" "D03" 35.0
"D060742" "043" "05" "O" 06/13/2009 "871820" "D04" 142
"D060742" "043" "05" "O" 06/13/2009 "871820" "D05" 10
"D060742" "043" "05" "O" 06/13/2009 "871820" "D06" 508
"D060742" "043" "05" "O" 06/13/2009 "871820" "D07" 614
"D060742" "043" "05" "O" 06/13/2009 "871820" "D09" 19.0
"D060742" "043" "05" "O" 06/13/2009 "871820" "D10" 0.0294
"G329945" "043" "05" "O" 06/13/2009 "871820" "T01" 92.2
"G329945" "043" "05" "O" 06/13/2009 "871820" "T02" 82.6
"G329945" "043" "05" "O" 06/13/2009 "871820" "T03" 87.4
"G329945" "043" "05" "O" 06/13/2009 "871820" "T04" 8.59
"G329945" "043" "05" "O" 06/13/2009 "871820" "T06" 137
"G329945" "043" "05" "O" 06/13/2009 "871820" "T07" 204
"G329945" "043" "05" "O" 06/13/2009 "871820" "T08" 314
"G329945" "043" "05" "O" 06/13/2009 "871820" "T09" 390
"G329945" "043" "05" "O" 06/13/2009 "871820" "T10" 1.0
"G329945" "043" "05" "O" 06/13/2009 "871820" "T13" 0.03
"G329945" "043" "05" "O" 06/13/2009 "871820" "T14" 0.00
"G329945" "043" "05" "O" 06/13/2009 "871820" "T15" 0.00
"G329945" "043" "05" "O" 06/13/2009 "871820" "T16" 0.00
"G329945" "043" "05" "O" 06/13/2009 "871820" "T17" 0.18
"G329945" "043" "05" "O" 06/13/2009 "871820" "T18" 0.00
"G329945" "043" "05" "O" 06/13/2009 "871820" "T19" 0.00
"G329945" "043" "05" "O" 06/13/2009 "871820" "T20" 0.00
"G329945" "043" "05" "O" 06/13/2009 "871820" "T21" 1.33
"G329945" "043" "05" "O" 06/13/2009 "871820" "T22" 0.0079
"G329945" "043" "05" "O" 06/13/2009 "871820" "T23" 60.7
"G329945" "043" "05" "O" 06/13/2009 "871820" "T24" 1131.5
"G329945" "043" "05" "O" 06/13/2009 "871720" "T26" 111
"G333404" "089" "12" "R" 08/14/2009 "872325" "T01" 93.5
"G333404" "089" "12" "R" 08/14/2009 "872325" "T02" 82.7
"G333404" "089" "12" "R" 08/14/2009 "872325" "T03" 88.1
```

**Key**

Sample # = text (7 char)

Inspector # = text (3 char)

Jurisdiction code = text (2 char)

Test type = "O" for Original or "R" for retest (1 char)

Test date = date (MM/DD/YYYY)

Lab # = text (can be lab reference, batch, etc.)

Test code = text (3 char) A listing of codes will be provided at the pre-proposal conference.

Result = real number

The contractor shall also provide test results to each municipality for samples taken by the municipality, and for any retests of these samples requested by the Department. In most cases the transmission will be by email. Where the municipality has no email capability the results shall be sent by FAX or first class mail. Mailing addresses for the 61 jurisdictions, phone and FAX numbers, and email addresses where available will be provided prior to the start of testing.

The contractor shall provide official, signed reports of the test results to the Department for those specific samples requested by the Department (generally for failures) within seven (7) business days of the request.

### QUALITY CONTROL AND ASSURANCE SYSTEMS

The contractor shall have internal and external quality control and assurance programs in place to monitor performance and ensure that tests are accurate within stated ASTM reproducibility limits. These shall be documented in the contractors Quality System description. The Department shall have access to review all of the quality programs at on-site audits and may further require information be supplied electronically for specific parameters. In addition, if the Department finds reason to question any test results, the contractor shall investigate the tests in question and document their conclusions.

The Department will submit duplicate blind samples periodically and share analysis of the agreement between results for each duplicate with the contractor. The Department may also conduct other broad data analyses on the data supplied by the contractor as part of a quality monitoring system, e.g. agreement between original octane tests and retests.

The contractor must continue to participate in external control programs (round robins) for the duration of the contract. The contractor shall also maintain and document internal quality control checks on parameters within the scope of the contract. For each such program, the contractor shall conduct an analysis of their performance for each measurement parameter. The contractor shall identify any out-of-control values and document the corrective actions taken. For biofuels, it is expected that the bidder will either have quality control programs in place for those parameters or initiate them prior to beginning of the contract.

### DISPOSITION OF SAMPLES

All samples shall be retained for nine (9) business days following the transmission of test results to the Department. After notification by the Department, non-conforming samples shall be preserved by the contractor for a period of ninety (90) days, and after further notification, for such additional time as may be required by the Department.

The remaining portion of conforming samples (and non-conforming samples after being held for the required periods) shall become the property of the contractor. Any cost savings from use of the remaining product shall be factored into the price of the tests.

### WITNESSES

The contractor shall make responsible personnel available, as necessary, to municipalities and the Department to serve as witnesses in connection with enforcement actions. Costs for this service shall be negotiated with the contractor and shall be paid by the Department. Incidences requiring witnesses are rare since most enforcement actions are settled through negotiated civil proceedings.

### INVOICING AND PAYMENTS

The contractor shall submit vouchers to the Department for payment using paper forms provided. The voucher shall include a summary containing a listing of each test protocol in the contract with the number of tests performed, the unit price, and total amount. In addition, the summary page must contain a listing of each add-on item (Hand-blend for RBOB/CBOB or Upgrade of Gas Octane to Gas Full) with the quantity, unit price, and the amount.

The contractor shall also provide supporting documentation for each voucher, in the file format below, and send it as a delimited ASCII text file to the [melodie.howarth@agriculture.ny.gov](mailto:melodie.howarth@agriculture.ny.gov) email address. The Department will verify the amounts for each voucher against data in its database. The Department expects that the text file will follow the format shown below.

#### Example of Text File for Billing

```
Sample_No, LIMS_Log_Date, Seal_Number, Jurisdiction, Lab_Number, Test_Type, Log_Date, Test_Slate
166191, 06/27/2009, G327846, 52, 871840, O, 06/27/2009, NY State Gasoline (Octanes)
166578, 06/30/2009, G207885, 55, 871840, O, 06/30/2009, NY State Gasoline (Full Test)
166578, 06/30/2009, G207885, 55, 871840, R, 06/30/2009, NY State Gasoline (Octane Retest)
165863, 06/20/2009, G328241, 51, 871840, O, 06/20/2009, NY State Gasoline (Hand Blend Add-on)
165863, 06/20/2009, G328241, 51, 871840, O, 06/20/2009, NY State Gasoline (Full Test Upgrade)
166340, 06/27/2009, D055568, 14, 871840, O, 06/27/2009, NY State Diesel (No Cetane Number)
166340, 06/27/2009, D055568, 14, 871840, O, 06/27/2009, NY State Diesel (Cetane Number)
166341, 06/27/2009, D055569, 14, 871840, O, 06/27/2009, NY State Diesel (CFPP one Temp)
166347, 06/27/2009, B055577, 14, 871840, O, 06/27/2009, NY State BioFuel (Biodiesel)
166348, 06/27/2009, B055578, 14, 871840, O, 06/27/2009, NY State Biofuel (Ethanol)
```

## KEY EVENTS/DATES

IFB Issued	January 15, 2013
Deadline to Register for Pre-proposal Conference	January 31, 2013
Mandatory Pre-Proposal Conference	February 7, 2013
Deadline for Questions	February 12, 2013
Last update of answers or issuance of IFB Addendum	February 14, 2013
Submission Deadline	February 21, 2013

## QUALIFICATIONS

The Department is seeking proposals from experienced companies with the personnel, facilities, and organization to meet the demands of a contract of the size and scope presented above. Bidders shall comply with the laws of the State of New York and shall possess or obtain any required licenses, permits or authorizations.

The Department will only consider bidders (and any proposed subcontractors) who meet the following qualifications:

1. The bidder and all of its affiliates/subsidiaries are independent and not affiliated or under the control of petroleum product producers, refiners, dealers, marketers or any entity subject to the control of any such person. There is no known current or future conflict of interest on the part of the bidder or affiliates/subsidiaries should they be awarded this contract.
2. The bidder is experienced in the performance of the tests on gasoline and diesel fuel to meet the demands of the Department's program.
3. The bidder has a quality management system (for example, following ISO 9000 or other quality standards) in-place and subject to review by the Department.
4. The bidder is registered and in good standing with the US Environmental Protection Agency to test Reformulated Gasoline (RFG) and has had at least 12 months experience testing RFG parameters.
5. The bidder has continuously participated in external control programs in the twelve (12) months immediately preceding submission of the proposal. This shall include "round robins" to demonstrate ability to perform the tests requested within applicable control limits. This must include gasoline octane and RFG parameters such as vapor pressure, benzene and sulfur.

## 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.**

**PROPOSAL** - Each copy of the proposal shall be organized in the following format.

### SECTION I: TECHNICAL PROPOSAL

#### 1. Qualifications of Bidder

- 1.1. Independence – Provide a signed and dated declaration, on company letterhead, that certifies compliance with the following two conditions. First, that your company, and any

affiliates/subsidiaries, is/are independent of petroleum product producers, refiners, distributors, dealers, marketers or any entity subject to the control of any such person. Second, that your company, and any affiliates/subsidiaries, is/are not involved in other relationships that may pose a conflict of interest in conducting independent testing and analyses and/or any other services associated with this offering.

- 1.2. Experience/Performance History – Provide a description of your company’s experience in performing the types of activities required to satisfy the Department’s needs (e.g. testing large numbers of gasoline and diesel fuel samples). Provide an organizational chart of key personnel that will most likely be assigned to this project including the laboratory manager, project manager(s) and key analytical workers. Also include information about their years of experience in the field. Include company names and contacts for at least three clients for whom you have provided a significant amount of testing services. Please indicate the relative size and scope of the work done for each such company. The Department reserves the right to contact any or all of the clients listed to verify information provided.
- 1.3. Quality Assurance – Provide *-one* copy of your company’s Quality Manual describing the management commitment, policies, and procedures to be used to ensure the quality of services provided. This may be hard copy or an electronic version on CD or DVD.
- 1.4. Laboratory Accreditation – Provide the Department with the contractor’s EPA registration number for testing reformulated gasoline. Also provide reference to any other accreditations, e.g. ISO 9000 or ISO 17025.
- 1.5. Experience Testing for RFG Parameters – Provide a description of your company’s RFG testing experience, including names and contacts for companies for whom you have provided testing services. This may include the same references used in item 1.2. The Department reserves the right to contact any or all of the clients listed to verify information provided.
- 1.6. Participation in Round Robin Evaluations – Provide a list of Round Robins in which you have participated over the last twelve months, organized in a table using the following format. If a particular round robin evaluates multiple parameters, please list each parameter separately. For each sample result that was identified as out-of-control, provide the date of the test and a brief description of the corrective action taken on a separate sheet.

Sample Format for Round Robin Evaluations

Organization	Parameter	# samples in last 12 months	# out-of-control results
Atlantic Regional	Research Octane	4	0
Atlantic Regional	Motor Octane	4	0

- 1.7. Facilities and Equipment – Provide a description of the facilities that will be used to satisfy the Department’s needs and a brief description of the work shifts to be employed. If certain tests are to be conducted at an alternate site under the corporate control of the bidder, the bidder shall clearly note this in the proposal. The bidder shall supply information required in items 1.1, 1.2, 1.3, 1.6, and 1.7 for the alternate site and items 1.4 and 1.5 if they are applicable to work to be assigned to the alternate site. Also provide a list of laboratory test equipment that will be used to conduct the tests including the number of units that will be employed.

Sample Format for Laboratory Equipment List:

<u># Units</u>	<u>Equipment Type</u>	<u>ASTM Test #</u>
2	Research Octane Engine	D2699
2	Motor Octane Engine	D2700
4	Vapor Pressure	D5191
etc.		

- 1.8. Subcontracting – If the bidder intends to subcontract tests to an outside source this shall be clearly noted in the proposal, subject to approval by the Department. To qualify a subcontractor, the bidder shall supply information required in items 1.1, 1.2, 1.3, 1.6 and 1.7 for the subcontractor and items 1.4 and 1.5 if they are applicable to work to be assigned to the subcontractor. For example, if the subcontractor is not doing RFG tests, the EPA RFG registration information for item 1.4 and the RFG testing experience for item 1.5 are not required.

SECTION II: FINANCIAL PROPOSAL - (See Attachment 3)

The bidder shall use Attachments 3a, 3b, 3c and 3d to submit a financial proposal. The financial proposal shall set forth the costs for each year of the proposed 4-year contract. The costs shall be presented on a per sample basis and shall include all costs associated with the collection, transportation, testing, data management, and reporting. The per-sample costs should reflect any cost savings from the disposition of useful product.

The total bid price will be calculated on the following number of samples per year over four years:

<b>Protocol</b>	<b>Number of Samples</b>
Gas Octane (inc retest)	7,100
Gas Full	5,700
Diesel Fuel	2,000
Cetane Number	25
Diesel Fuel CFPP	40
Fuel Oils (Sulfur only)	50
Ethanol	50
Bio-Diesel (B100)	80
Hand Blending	1,200

OTHER REQUIRED DOCUMENTS

1. Audited Financial Statement - The bidder shall provide one copy of its most recent audited financial statement.
2. Signed and notarized Non-collusive Bidding Certification (Attachment 4)
3. MacBride Stipulation (Attachment 5)
4. A signed copy of any addendums to the IFB that have been posted on the Department's website.
5. Offeror's Affirmation of Understanding and Agreement Pursuant to State Finance Law § 139-j(3) and § 139-j(6) (Attachment 6 - Form 2)
6. Offeror's Certification of Compliance Pursuant to State Finance Law § 139-k(5) (Attachment 6 - Form 3)

All business information obtained by the Department as part of a proposal (e.g. financial statement and quality manual), shall be received as trade secrets under Section 87 of the New York Public Officers Law.

## METHOD OF AWARD

If deemed to be in the best interest of the Department and the State, a contract will be awarded to the single, qualified bidder whose proposal represents the lowest total cost to the Department for the three potential contract years.

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 shall be done in stages as follows:

### Stage 1. Evaluation of Financial Proposal

The low bidder will be determined using the total projected contract costs for the three potential contract years at the sample levels specified in the chart on page 12 of this IFB. A copy of the Excel spreadsheet used to calculate the total cost will be provided at the pre-proposal conference.

### Stage 2. Evaluation of the Bidder Qualifications - (Qualitative Screen)

The Department will screen the proposal received from the lowest bidder using the Qualitative Checklist below. A “NO” response by the evaluation team 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	1.1. The bidder has certified that their company, and any of its subsidiaries, is/are not owned by or affiliated with petroleum product producers, refiners, distributors, dealers, marketers or any entity subject to the control of any such person.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	The bidder has certified that their company, and any of its subsidiaries, is/are not involved in any other relationship that may pose a conflict of interest in conducting independent testing and analysis and/or any other aspect of the scope of services associated with this offering.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	1.2 A list of at least three clients was provided.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	The bidder has 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 services for the clients, and performed those services in a timely manner consistent with current industry practices and established procedures e.g. ASTM standards.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	1.3 The Bidder has a Quality System in place.
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	Although strict compliance with an established standard like ISO 9000 is not required, the Department will demand that the Quality System have the following critical elements:
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> <li>▪ The Quality System applies to the parameters and tests requested in Scope of Services in this IFB.</li> </ul>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> <li>▪ The Quality System declares the Company’s commitment to provide high quality services.</li> </ul>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> <li>▪ The Quality System lists Personnel responsible for the implementing and maintaining the Quality System and lists their specific responsibilities.</li> </ul>

<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	<ul style="list-style-type: none"> <li>▪ The Quality System includes annual review of the quality system, audit of actual conformance, and procedures to handle complaints and take corrective actions when non-compliance is detected.</li> <li>▪ The Quality System includes/references documented procedures for calibrating the test equipment, handling and storing samples, performing the appropriate tests, maintaining records of the tests, and reporting the results.</li> </ul>
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	1.4 The bidder provided documentation that it is currently registered with the EPA to test RFG.
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  <input type="checkbox"/> Yes <input type="checkbox"/> No	1.5 A list of RFG clients was provided , and  The bidder has at least 12 months experience performing such tests.
<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	1.6 The bidder has participated in Round Robin evaluations over the last twelve months for various parameters. The summary provided must include at a minimum: <ul style="list-style-type: none"> <li>▪ gasoline octane (both research and motor octane)</li> <li>▪ vapor pressure</li> <li>▪ gasoline sulfur content (Not applicable if 1.4 and 1.5 are checked N/A)</li> <li>▪ gasoline benzene content (Not applicable if 1.4 and 1.5 are checked N/A)</li> </ul>
<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	1.7 The bidder has provided a list of laboratory sites that will be used.  The bidder has provided a list of test equipment to be used that includes all the parameters requested and associated test equipment required to perform those specific tests. For alternative sites of subcontractors this only applies to the specific tests they will perform.  Proposed alternative sites are under the corporate control of the bidder.  Proposed alternative sites, comply with the applicable requirements. (A separate Qualitative Checklist will be completed for each alternative site. To qualify, the Qualitative Checklist for each alternative site must be free of No responses.)
<input type="checkbox"/> Yes <input type="checkbox"/> N/A  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	1.8 Subcontracting – The bidder proposed to subcontract some tests? (N/A if bidder is not using subcontractors.)  If Yes is checked above, is the subcontracting declared in the proposal?  Does the subcontractor meet the minimum qualifications for the specific tests it will perform? (A separate Qualitative Checklist will be completed for each subcontractor. To qualify, the Qualitative Checklist for each subcontractor must be free of No responses.)

Stage 3. Optional Site Visit

After the initial qualitative screening of the low bidder’s proposal, the Division of Weights and Measures may opt to make a site visit to the low bidder’s facilities. The site visit may include, but is not limited to, meeting with the bidder’s senior staff, and observing and verifying the bidder’s capabilities as described in the proposal. If the Department determines that the bidder included statements that were misleading or inaccurate pertaining to significant aspects of the proposal, the bidder may be disqualified.

## TERMS OF AGREEMENT

The Department will award a contract to the successful bidder for a one year term, with the possibility of three additional one-year renewals. The contract will incorporate this IFB and the successful bidder's proposal among its provisions. A copy of the standard clauses that set forth the general terms and conditions required in all contracts awarded by the Department as well as any special conditions that will be required for this contract is attached to this IFB. (See Attachment 1) The initial contract and subsequent renewals are contingent on availability of funding, and approval of the Department, the Attorney General's Office and the Office of the State Comptroller.

At the end of any negotiated contract term, if a replacement contract has not yet been approved in accordance with state law, any contract awarded hereunder may be extended unilaterally by the State, upon notice to the contractor, at the same terms and conditions, including all contract prices, for a period of one month. Additionally, this extension may be for a period of up to three months with the concurrence of the contractor. However, any extension will terminate immediately upon approval of the replacement contract except where a period for transition of contractors has been previously provided for.

### APPENDIX A

Appendix A, which is posted on the Department's website at [www.agmkt.state.ny.us](http://www.agmkt.state.ny.us), contains standard clauses required in all State contracts. Appendix A will be a part of any contract awarded under this IFB, and the successful bidder will be responsible for complying with the terms and conditions contained therein.

### CERTIFICATION PURSUANT TO NEW YORK STATE TAX LAW SECTION 5-A

Pursuant to Tax law Section 5-a, certain contractors with New York State are required to certify to the Tax Department 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 specified period. In addition, contractors must certify to the Tax Department 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 agency that they filed the certification with the Tax Department and it is correct and complete. The successful bidder will be required to complete and sign, under penalty of perjury, the Contractor Certification Form ST-220-TD and the Contractor Certification to Covered Agency Form ST-220 - CA. The Contractor Certification Forms are available from the Department of Tax and Finance web site at [http://www.tax.state.ny.us/forms/sales\\_cur\\_forms.htm#Other%20Sales%20Tax%20Forms](http://www.tax.state.ny.us/forms/sales_cur_forms.htm#Other%20Sales%20Tax%20Forms).

The successful bidder will be required to complete and submit the Contractor Certification Forms within three (3) business days of request. Failure to respond timely may render a bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms, within a timely manner to ensure compliance with the law. Vendors may call the Tax Department at 1-800-698-2931 for any and all questions relating to Tax Law § 5-a and relating to a company's registration status with the Tax Department. For additional information and frequently asked questions, please refer to the Department of Tax and Finance web site: [http://www.nystax.gov/sbc/nys\\_contractors.htm](http://www.nystax.gov/sbc/nys_contractors.htm).

The Department reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with § 5-a of the Tax Law is not timely filed during the term of the contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by providing ten (10) days written notification to the Contractor.

### CONSULTANT SERVICES CONTRACTOR'S EMPLOYMENT REPORTS

The successful bidder will be required to submit the attached Form A: "State Consultant Services Contractor's Planned Employment from Contract Start Date through the End of the Contract Term" to the Department upon signing the contract. In addition, the successful bidder will be required to submit the attached Form B: "State Consultant Services Contractor's Annual Employment Report" to the Department, the Office of the State Comptroller and the Department of Civil Service on or before May 15<sup>th</sup> of each year of this Agreement. Such report shall include employment data for the most recently concluded State fiscal year (April 1- March 31).



WORKER'S COMPENSATION AND DISABILITY INSURANCE REQUIREMENTS

The Worker's Compensation Law requires that before a New York State Agency may enter into any contract, the contractor must submit proof that he or she has obtained the required worker's compensation and disability benefits coverage, or that he or she is not required to provide coverage. If you are selected as the successful bidder, before we can contract with you, you must provide us with the necessary proof of coverage completed by your insurance carrier and/or the Worker's Compensation Board on a form approved by the Worker's Compensation Board.

MINORITY AND WOMEN BUSINESS ENTERPRISES

The Department of Agriculture and Markets recognizes the need to take affirmative action to insure that Minority and Women 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 business enterprises	1%
Women owned business enterprises	1%

MACBRIDE FAIR EMPLOYMENT PRINCIPLES (See Attachment 5)

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.

**NYS VENDOR RESPONSIBILITY QUESTIONNAIRE**

Bidder agrees to fully and accurately complete the appropriate Vendor Responsibility Questionnaire, which can be found on the New York State Office of State Comptroller's website at [http://www.osc.state.ny.us/vendrep/forms\\_agency\\_vresp.htm#vrq](http://www.osc.state.ny.us/vendrep/forms_agency_vresp.htm#vrq) (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.

NOTE: Proposers are invited 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](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <http://www.osc.state.ny.us/vendrep/login.htm>. For direct VendRep

System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email [athelpdesk@osc.state.ny.us](mailto:athelpdesk@osc.state.ny.us).

**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, is 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 to receive contacts pertaining to this IFB:

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

# AGREEMENT

<p style="text-align: center;"><b>New York State</b>  <b>Department of Agriculture and Markets</b>                  10B Airline Drive                  Albany, NY 12235                  Agency Code 06000</p> <p><b>Contract Authority: Agriculture and Markets Law Article 16,                  §§ 192-a &amp; 192-c; Chapter ____ of the Laws of 200__</b></p>	Contract Number: _____ Amount of Agreement: \$ _____ Contract Period: _____ <b>to</b> _____ Renewal Period: _____ Federal ID: _____
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Contractor Name/Project Sponsor: \_\_\_\_\_

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

Billing Address (if different from above):

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

Title/Description of Project: **Laboratory Testing of Petroleum Products**

THIS AGREEMENT INCLUDES THE FOLLOWING:	FOR AMENDMENTS CHECK THOSE THAT APPLY:	
<input checked="" type="checkbox"/> This Coversheet <input checked="" type="checkbox"/> Appendix A (Standard Clauses for all New York State Contracts) <input checked="" type="checkbox"/> Appendix B (Project Budget) <input checked="" type="checkbox"/> Appendix C (Invitation for Bid) <input checked="" type="checkbox"/> Appendix D (The Department's General Conditions) <input checked="" type="checkbox"/> Appendix E (The Department's Special Conditions) <input type="checkbox"/> Appendix F - Other (Identify)	<input type="checkbox"/> Additional Work <input type="checkbox"/> Extension of Time From _____ to _____ <input type="checkbox"/> Increase Amount <input type="checkbox"/> Decrease Amount <input type="checkbox"/> Renewal: Remaining <input type="checkbox"/> Revised Budget <input type="checkbox"/> Revised Scope of Work <input type="checkbox"/> Other	If Increase/Decrease in Amount: Previous Amount: \$ _____ Increase/decrease \$ _____ New Total: \$ _____

**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 (claim for payment form), 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, Claims for payment 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 . Payments made after fiscal year or payment for work pursuant to this Agreement which is completed or continued by the **Contractor** after fiscal year is subject to appropriation of funds by the Legislature in each subsequent fiscal year.

## **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.

## **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 nor 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

Either party may terminate this Agreement for convenience upon giving thirty (30) days written notice to the other party. Upon receipt of such notice from the **Department**, 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. Cause for termination shall include the failure of the **Contractor** to perform according to the standards set forth in the IFB attached as Appendix C of this Agreement.

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

## MODIFICATION

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

## NECESSARY SIGNATURES

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

## 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.

#### RENEWAL

This Agreement may be renewed by the **Department** in its sole discretion for successive terms not to exceed three (3) years, subject to the approval of the Attorney General and Comptroller of the State of New York.

#### 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.

#### SUBCONTRACTS

Subcontracting of any portion of the services required under this Agreement shall not be permitted without the expressed prior written approval of the **Department**. Any request to use subcontractors must include a complete description of the proposed subcontractor, its key personnel, its location, the services it will provide, and its qualifications to provide such services. Any subcontractor providing laboratory services must meet all the qualifications listed in the IFB, attached as Appendix C of this Agreement, and must provide documentation of its quality management system and its internal and external control programs to demonstrate ability to perform the services required.



## **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%

## **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**.

**State of New York  
Petroleum Product Quality Assurance Program**

**Registration for Pre-proposal Conference  
To be held 10:30 AM, February 4, 2013**

**Submit Registration Form by 4:30 PM on January 31, 2013**

<b>Official Contact</b>	
<b>Company Name</b>	
<b>Street Address</b>	
<b>City, State Zip</b>	
<b>Phone Number</b>	
<b>FAX Number</b>	
<b>Email Address</b>	
<b>Other Attendees</b>	

**Form must be received by 4:30 PM January 31, 2013**

Mail, fax, or email the information to Mike Sikula. A fax confirmation of receipt will be returned to sender. If you do not receive a Confirmation within 1 business day, please call (518) 457-3146.

Mail to: Mike Sikula, Director  
Bureau of Weights and Measures  
NYS Department of Agriculture and Markets  
10B Airline Drive  
Albany, NY 12235

Fax Number: (518) 457-5693

Email: [mike.sikula@agriculture.ny.gov](mailto:mike.sikula@agriculture.ny.gov)

The Subject line of the email should be: Registration for Pre-Proposal Conference.

**State of New York  
Petroleum Product Quality Assurance Program  
Financial Proposal for Initial Contract Year (~2013)**

Company:		Contact:	
Address:		Phone:	
E-mail		Fax:	

<b>Protocol: Gas Octane</b>	
Number of Samples	\$ per Sample
1 to 2,500	
2,501 to 5,000	
Over 5,000	

<b>Protocol: Gas Full</b>	
Number of Samples	\$ per Sample
1 to 2,000	
2,001 to 3,500	
Over 3,500	

<b>Protocol: Diesel Fuel</b>	
Number of Samples	\$ per Sample
1 to 900	
901 to 1,500	
Over 1,500	

<b>Protocol: Diesel Fuel - Cetane Number</b>	
Number of Samples	\$ per Sample
1 to 200	
Over 200	

<b>Protocol: Diesel Fuel CFPP</b>	
Number of Samples	\$ per Sample
Up to 100	
Over 100	

<b>Protocol: Fuel Oils (Sulfur only)</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

<b>Protocol: Ethanol</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Bio-Diesel (B100)</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Add-on – Hand Blending</b>	
Number of Samples	\$ per Sample
Up to 1,300	
Over 1,300	

<b>Protocol: Add-on - Gas Full Upgrade</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

**State of New York  
Petroleum Product Quality Assurance Program**

**Financial Proposal for Second Contract Year (~2014)**

Company:		Contact:	
Address:		Phone:	
E-mail		Fax:	

<b>Protocol: Gas Octane</b>	
Number of Samples	\$ per Sample
1 to 2,500	
2,501 to 5,000	
Over 5,000	

<b>Protocol: Gas Full</b>	
Number of Samples	\$ per Sample
1 to 2,000	
2,001 to 3,500	
Over 3,500	

<b>Protocol: Diesel Fuel</b>	
Number of Samples	\$ per Sample
1 to 900	
901 to 1,500	
Over 1,500	

<b>Protocol: Diesel Fuel - Cetane Number</b>	
Number of Samples	\$ per Sample
1 to 200	
Over 200	

<b>Protocol: Diesel Fuel CFPP</b>	
Number of Samples	\$ per Sample
Up to 100	
Over 100	

<b>Protocol: Fuel Oils (Sulfur only)</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

<b>Protocol: Ethanol</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Bio-Diesel (B100)</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Add-on – Hand Blending</b>	
Number of Samples	\$ per Sample
Up to 1,300	
Over 1,300	

<b>Protocol: Add-on - Gas Full Upgrade</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

**State of New York  
Petroleum Product Quality Assurance Program**

**Financial Proposal for Third Contract Year (~2015)**

Company:		Contact:	
Address:		Phone:	
E-mail		Fax:	

<b>Protocol: Gas Octane</b>	
Number of Samples	\$ per Sample
1 to 2,500	
2,501 to 5,000	
Over 5,000	

<b>Protocol: Gas Full</b>	
Number of Samples	\$ per Sample
1 to 2,000	
2,001 to 3,500	
Over 3,500	

<b>Protocol: Diesel Fuel</b>	
Number of Samples	\$ per Sample
1 to 900	
901 to 1,500	
Over 1,500	

<b>Protocol: Diesel Fuel - Cetane Number</b>	
Number of Samples	\$ per Sample
1 to 200	
Over 200	

<b>Protocol: Diesel Fuel CFPP</b>	
Number of Samples	\$ per Sample
Up to 100	
Over 100	

<b>Protocol: Fuel Oils (Sulfur only)</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

<b>Protocol: Ethanol</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Bio-Diesel (B100)</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Add-on - Hand Blending</b>	
Number of Samples	\$ per Sample
Up to 1,300	
Over 1,300	

<b>Protocol: Add-on - Gas Full Upgrade</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

**State of New York  
Petroleum Product Quality Assurance Program  
Financial Proposal for Third Contract Year (~2016)**

Company:		Contact:	
Address:		Phone:	
E-mail		Fax:	

<b>Protocol: Gas Octane</b>	
Number of Samples	\$ per Sample
1 to 2,500	
2,501 to 5,000	
Over 5,000	

<b>Protocol: Gas Full</b>	
Number of Samples	\$ per Sample
1 to 2,000	
2,001 to 3,500	
Over 3,500	

<b>Protocol: Diesel Fuel</b>	
Number of Samples	\$ per Sample
1 to 900	
901 to 1,500	
Over 1,500	

<b>Protocol: Diesel Fuel - Cetane Number</b>	
Number of Samples	\$ per Sample
1 to 200	
Over 200	

<b>Protocol: Diesel Fuel CFPP</b>	
Number of Samples	\$ per Sample
Up to 100	
Over 100	

<b>Protocol: Fuel Oils (Sulfur only)</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

<b>Protocol: Ethanol</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Bio-Diesel (B100)</b>	
Number of Samples	\$ per Sample
Up to 300	
Over 300	

<b>Protocol: Add-on – Hand Blending</b>	
Number of Samples	\$ per Sample
Up to 1,300	
Over 1,300	

<b>Protocol: Add-on - Gas Full Upgrade</b>	
Number of Samples	\$ per Sample
Up to 200	
Over 200	

**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 \_\_\_\_\_, 2013

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

Signature \_\_\_\_\_

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

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

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

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

**Sworn to before me this**

\_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
**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: \_\_\_\_\_



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>1</sup> during the procurement process. The Lobbying Law applies to all procurements initiated on or after January 1, 2009. 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>2</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 occupation of the person or organization making the contact, and whether the person/organization making the

<sup>1</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>2</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**

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.ny.gov/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.ny.gov/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:		