

NYS DEPARTMENT OF AGRICULTURE AND MARKETS REQUEST FOR PROPOSALS

A Comprehensive Statewide Strategy for the Management of Invasive Species in New York State

The New York State Department of Agriculture and Markets seeks proposals from qualified parties to identify the components necessary for the development and implementation of a comprehensive statewide strategy for the exclusion, early detection and rapid response leading to the control, management and eradication of invasive species in New York State. The strategy must incorporate public and private sector resources in a coordinated and organized partnership directed at the mitigation of economic and environmental impacts attributed to invasive species. Proposals should conform to the format and content specified in this Request for Proposals (RFP). Funding of this study will not exceed \$100,000.

Proposals **MUST BE RECEIVED** by the Department's Division of Fiscal Management by 4:30 p.m. EST on **Friday, May 22, 2009**. Bidders, not delivery services or other intermediaries are responsible for the timely submission of proposals. Faxed and e-mailed proposals will not be accepted. Proposals delivered after the schedule date and time will not be accepted.

Six (6) copies of each proposal should be submitted to:

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

QUESTIONS CONCERNING THE RFP

Bidders with questions about requirements contained in this RFP should contact:

Diane Goetke, Invasive Species Coordinator, Division of Plant Industry
NYS Department of Agriculture and Markets
10 B Airline Drive, Albany NY 12235
Phone (518) 457-2087 Fax (518) 457-1204
diane.goetke@agmkt.state.ny.us

All questions shall be submitted in writing (facsimile or e-mail will be accepted) to Ms. Goetke by 4:30 p.m. EST, Tuesday, April 28, 2009. Bidders should note that all clarifications must be resolved prior to the submission of a proposal. A list of questions about the RFP, and answers to those questions, as well as any addenda to the RFP, will be posted in the "Funding Opportunities" section of the Department's website, www.agmkt.state.ny.us, along with the electronic version of this RFP. Questions and answers will be posted by May 5, 2009. If you are unable to access the Department website, please contact Ms. Goetke to arrange for alternate transmission of the posted documents. All questions and answers shall be incorporated into this RFP as a formal

addendum. Please note that a signed copy of the May 5, 2009 version of the questions and answers and any posted addenda must be included with your proposal.

MANDATORY PRE-BID CONFERENCE

The Department will hold a mandatory pre-bid conference at 10:00 AM on April 21, 2009, located at NYS Department of Agriculture and Markets, 10-B Airline Drive, Albany, NY 12235.

The purpose of this conference is to answer questions and provide clarifications regarding the RFP.

Potential bidders shall notify the Department by April, 9,2009 of intent to attend by mailing or faxing the attached form (Attachment # 1) as instructed.

Bids 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 May 5, 2009

KEY EVENTS/DATES	
RFP Issued	March 16, 2009
Mandatory Pre-Bid Conference	April 21, 2009
Deadline for Questions	April 28, 2009
Last update of answers or issuance of RFP Addendum	May 5, 2009

Timetable of Key Events

Event:

Date:

Final date for receipt of written questions

April 28, 2009

Official responses to questions

May 5, 2009

Proposal due (not postmarked) time and date

4:30 p.m. EST, May 22, 2009

Notification of Award

July 2, 2009

BACKGROUND

In 2003, the Governor signed legislation calling for the creation of a New York State Invasive Species Task Force (ISTF). The ISTF was asked to examine invasive species issues and to provide recommendations back to the Governor and Legislature by November 2005. The ISTF was co-chaired by the Commissioners of the State Departments of Agriculture and Markets and Environmental Conservation and included membership from a number of key state agencies and authorities. Additionally, eight (8) at-large members were selected representing the New York Biodiversity Research Institute, NYS College of Agricultural and Life Sciences at Cornell, New York Sea Grant, The Nature Conservancy, Invasive Plant Council of New York State, New York Farm

Bureau, New York State Nursery and Landscape Association and the Empire State Marine/Trades Association.

The role of the ISTF was to assess the nature, scope and magnitude of the environmental, ecological, agricultural, economic, recreational and social impacts caused by invasive species in the state, and to identify actions taken by members of the ISTF, State and local governments and the public to:

1. Prevent the introduction of invasive species;
2. Detect and respond rapidly to and control populations of invasive species in a cost-effective and environmentally sound matter;
3. Monitor invasive species populations accurately and reliably;
4. Provide for restoration of native species and habitat conditions in ecosystems that have been invaded;
5. Conduct research on invasive species and develop technologies to prevent introduction;
6. Provide for environmentally sound control of invasive species; and
7. Promote public education on invasive species and the means to address invasive species.

The ISTF prepared and submitted a Final Report to the Governor in 2005 with twelve (12) recommendations. "Recommendation 1" called for the establishment of a permanent leadership structure to coordinate invasive species efforts. "Recommendation 2" dealt with the preparation and implementation of a comprehensive invasive species management plan (see "Final Report of the New York State Invasive Species Task Force, Fall 2005", Pages 61-67 of 108).

In response to the ISTF recommendations, in March 2008 the NYS Legislature amended legislation (Chapter 26, Title 17 of ECL Article 9) to establish the New York State Invasive Species Council along with an advisory committee to the Council. The legislation charges the Council with the development of a "comprehensive plan for invasive species management," along with other duties and responsibilities related to the long-term management of invasive species in the State.

In order to proceed with these critical responsibilities, it is essential for the Invasive Species Council to have a thorough understanding of the existing statutes, authorities, rules, regulations, policies, funding and other resources that address invasive species management in the State of New York. The development of a detailed schematic diagram identifying the existing roles and responsibilities of state agencies and other authorities and their existing relationships, funding streams, interactions and coordination, will assist the Council in this understanding. It is anticipated from this diagrammatic depiction that the overlapping authorities and gaps can be identified and, ultimately, addressed to reduce or eliminate, where practicable, any redundant, contradictory or conflicting policies and programs.

To facilitate a more thorough understanding of invasive species issues, the ISTF initiated a review of existing efforts and programs in New York State. The ISTF conducted a preliminary survey of state agencies, authorities and private sector agencies and organizations at the state level. Because the federal agencies' role in invasive species management (exclusion, detections and control) and their relationship and/or interaction with state agencies is also of paramount importance, the NYS comprehensive strategy for invasive species management must therefore also explore and evaluate these federal interrelationships and how these entities interact with NYS agencies and programs.

PROJECT OBJECTIVE

To provide a framework that identifies and recommends the necessary elements for an effective, long-term, comprehensive strategy and plan for the management of invasive species, of all taxa, in New York State.

PROJECT DELIVERABLES

A. Describe existing relevant legal authorities and coordination amongst the various agencies and organizations currently involved with invasive species management in New York State.

1. Provide a comprehensive schematic diagram outlining existing invasive species programs, structures, authorities, funding sources and relationships amongst the various state and federal agencies and private sector organizations. The schematic diagram should detail current coordination and collaboration amongst the existing entities and organizations. It should identify and document existing responsibilities of the various entities, including finding parallel, contradictory or conflicting policies or programs. It should identify gaps in existing structure and programs that could impede effective management of invasive species.
2. Provide a thorough exploration and evaluation of federal agency interrelationships, how they interact with NYS programs and their oversight of invasive species and pest exclusion and interception programs. Also explore the existing federal funding sources.
3. Present a review and analysis of the existing information obtained from the stakeholder survey developed by the Invasive Species Task Force. Perform an updated assessment and evaluation of the state agencies and private organizations data. Collect and add federal stakeholder information to the survey.
4. Identify stakeholder programs and priorities through the above research by conducting interviews with the following:
 - a. Key personnel of federal and state agencies. Describe existing programs and resources presently dedicated to invasive species

management. Evaluate existing partnerships and collaborations, identifying the potential for enhanced coordination and cooperation.

- b. Key personnel representing private sector invasive management organizations and plant and animal industry stakeholder groups. Explore the potential for cooperation between public and private sector organizations.

B. Recommend agency responsibilities and coordination. Identify practicable opportunities to reduce or eliminate contradictory or conflicting policies or programs and opportunities to streamline current regulatory processes. Identify avenues to improve interstate coordination and information sharing. Explore needed New York State and/or federal legislation or regulations.

1. Evaluate existing legal authorities and coordination and provide rationale for the most efficient programs, processes and coordination.
2. Present an outline of opportunities to coordinate and cooperate with adjacent states to identify pest risks and important pest targets. Assess benchmarking information from various other states already involved with invasive species management.
3. Supply an evaluation of the practicality and benefit derived from the establishment of a comprehensive unified invasive species law that incorporates existing state agency authorities and programs. The unified legislation would combine resources, establish leadership, and identify priorities needed to implement the statewide strategy for addressing the threat posed by introduction and establishment of invasive species in the state.

C. Recommend approaches to achieve adequate funding for invasive species efforts. Provide an assessment of appropriate resource allocations and the need for additional staff positions at state agencies.

1. a. Provide an outline of **existing** funding sources and opportunities, including those from the private sector and from federal, state and local levels.
b. Provide an outline of **potential** funding sources and opportunities, including those from the private sector and from federal, state and local levels.
2. Supply an evaluation of the total allocations necessary to fund the breadth of invasive species management activities and the state staff positions required to properly implement the comprehensive invasive species management strategy. Consider a range of cost-effective alternatives.
3. Evaluate the need for additional staffing and funding to adequately provide coordination, leadership and necessary supplies required to advance a comprehensive management plan for invasive species in the state.

D. Emphasize the means required to properly address prevention, early detection and rapid response to reduce, minimize and/or eliminate future invasive species damage in the state.

1. Compile a list of existing and recommended public and private resources required to implement a comprehensive statewide strategy for the exclusion and early detection of new invasions and the rapid response leading to the control, management and eradication of invasive species of all taxa. Identify the overall strengths and weaknesses of the existing invasive species network in the area of exclusion, early detection and rapid response.
2. Provide a specific evaluation of the potential to unify and better coordinate activities and resources among Federal and State agencies and private sector invasive organizations and industry stakeholders, particularly with respect to the prevention and early detection of invasions and the necessary rapid response activities for both invasive plants and animals. Explore non-regulatory approaches to facilitate prevention of new introductions and limit spread of existing invasions.

E. Evaluate and recommend the best means to incorporate, as appropriate, the approved New York State Aquatic Nuisance Species (ANS) Management Plan; the Lake Champlain Basin ANS Management Plan; and the Adirondack Park ANS Management Plan.

F. Identify the recommended next steps and specific work that would be required to develop the final “Comprehensive Plan for Invasive Species Management” for New York State.

Please note that these recommended next steps will be reviewed, assessed and evaluated by the Invasive Species Council, to determine how they can be utilized in the preparation of a final New York State “Comprehensive Plan for Invasive Species Management.” This “Final Plan” phase will be undertaken at the direction of the Council, as a task separate from this contract.

Interim and Final Reports

The contactor will deliver quarterly interim reports in October, January and April; and a final report in July 2010. In addition, the contractor will meet at least quarterly with the Invasive Species Council and/or the Advisory Committee as necessary to review progress and accomplishments. These progress report meetings will generally coincide with the regular quarterly meetings of the Council and of the Advisory Committee and would occur approximately every two to three months and run approximately one to two hours in length. The contractor will be expected to present formal project update reports at each scheduled meeting of the Council.

The contractor must summarize the findings and recommendations associated with this study in the final report and produce 100 copies of the document. All findings must be fully documented in the final report. The report must include an executive summary and summary tables of relevant information and must provide a detailed written and graphic presentation of data from the stakeholder research.

BIDDER QUALIFICATIONS

In evaluating qualifications, the highest scores will be given to those bidders that can demonstrate the availability of an experienced multi-disciplinary team to direct the study effort and that have completed other projects that were similar to this study in scope and complexity. Bidders will be evaluated on their demonstrated exemplary past performance as shown by project experience, positive references, high quality staff résumés, and knowledge of pertinent documents and legislation.

Areas of knowledge and experience should include the following:

- Familiarity with the Fall 2005 Final Report of the New York State Invasive Species Task Force
- Familiarity with the state legislative process and with ECL Article 9, Title 17, the New York Invasive Species Council legislation
- An understanding of existing Federal-State invasive pest programs and resource allocations
- A knowledge of Federal and State invasive species laws and/or animal and plant pest laws
- Familiarity with the “National Invasive Species Council Management Plan”
- A knowledge of private sector organizations having an interest in invasive species and a familiarity with their specific priorities and focus
- Familiarity with invasive species of diverse taxa

PROPOSAL FORMAT

Proposals shall conform to the format described below:

Technical Component (See Submission Format attached)

Submission Format shall consist of the technical component of the proposal. Please address all questions. Blank or incomplete responses will be deemed non-responsive and may result in a reduced score or disqualification. Do not include any cost information on Submission Format.

Cost Component (See Form B attached)

Use Form B to provide a detailed budget and cost breakdown of the proposal. The budget shall include compensation for the following: key professional personnel, expressed as number of hours to be worked multiplied by an hourly rate which shall include all taxes and benefits; data collection and data processing costs; printing and incidental expenses (including 100 copies of the final report). Funding for this study will not exceed \$100,000. Supply all information requested on Form B.

Non-Collusive Bidding Certification Required by Section 139-D of the State Finance Law (Attachment 3)

MacBride Stipulation (Attachment 4)

Contractor Responsibility Questionnaire (Attachment 5)

Consultant Services Contractor's Form A (Attachment 6)

Offeror's Affirmation of Understanding and Agreement to State Finance Law § 139-j (3) and § 139-j (6) (Attachment 7 – Form 2)

Offeror's Certification of Compliance Pursuant to State Finance Law § 139-k (5) (Attachment 7 – Form 3)

Questions & Answers and Other Addenda

SELECTION CRITERIA

Reference Checks

Bidders must provide business day contact information for three (3) client references. These reference checks will serve to confirm the quality of the work for these clients, including adherence to timeframes and budget. The Department will make up to three call attempts, Monday through Friday between the hours of 9:00 am and 4:00 pm, to successfully contact the references provided by each bidder. Information obtained during the reference checks will be forwarded, along with the proposals, to the technical evaluators for their review and use in the scoring process (worth up to 10 points). If less than two references are reached successfully, then the bidder will automatically receive only one (1) point for this criterion.

Oral Presentation

If there are two or more eligible bidders, those that received a composite score within 10 points of the top score will be required to give an oral presentation to the Technical Evaluation Team, not to exceed one-half hour. The oral presentation will be worth a maximum of 10 points. The bidders will be asked to present and explain proposed research strategies, work plans and methodologies. The Department will not require oral presentations if the difference in the composite scores of the 1st and 2nd ranked proposals is greater than 10 points. If no oral presentations are held, then each bidder automatically receives 10 points for this factor.

Technical Evaluation

The technical component of the proposal is weighted at a maximum of 80 points. Varied points will be assigned to each of the following factors:

- Bidder's demonstrated understanding of the underlying issues and objectives of the study, including a description of an initial approach in development of a

statewide comprehensive management plan addressing invasive species in NY State.

- Bidder's demonstrated qualifications to undertake the study in terms of the following:
 - a) Successful experience with similar projects.
 - b) Multi-disciplinary team of experts.
 - c) Results of reference checks as demonstrated by overall satisfaction of the client with performance in areas of timeliness, budget and quality of completed work.
 - d) Results of oral presentation, if needed.
 - e) Degree of experience with and knowledge of current invasive species legislation, reports, initiatives, programs at all levels - state, federal and local.

- Bidder's plan of work must address each of the following:
 - a) How interaction with key state agency authorities will be accomplished to gather information pertaining to the interpretation of statutes, regulations and the philosophies of their application, including a timeline for outreach to public and private sector organizations and interviews with key organization personnel.
 - b) How will the relationships of state agencies with federal, private sector cooperators and regulated parties be identified; demonstrate how information will be compiled to identify existing coverage and programs, overlapping laws and authorities, gaps, strengths and weaknesses in invasive species networks and opportunities for an improved framework for addressing invasives issues in the State.
 - c) Describe how the information will be integrated to provide a scope that meets the requirements outlined in ECL Article 9-1705.5(c).

Cost Evaluation

The cost submitted by the bidder must include the total cost proposed for carrying out the project. The total cost from Form B will be used in calculating the Cost Score. The proposal with the lowest proposed cost will receive 20 points. All other proposals will be pro-rated based on the lowest bid price.

METHOD OF AWARD

Award Determination

An award will be made to one bidder on a best value basis. "Best Value" is defined in the State Finance Law as "the basis for awarding contracts for services to the offeror which optimizes quality, cost, and efficiency, among responsive and responsible offerors." After completion of the technical and cost evaluation (including evaluation of oral presentations if necessary), a composite score will be assigned to each proposal, with the technical score weighted at 80 points and cost score weighted at 20 points. Award shall be made to the bidder with the proposal that has the highest combined

technical and cost score. In the event of a tie, the winning proposal will be determined by a majority vote of the technical evaluation team members.

Notification of Award and Contract Provisions

The Department will send written notice to the successful bidder. A contract defining all terms and conditions and responsibilities of the successful bidder shall be developed by the Department prior to the commencement of the study. The contract will incorporate this request for proposals, the successful bidder's proposal, including a budget approved by the Department, and any posted addenda and questions and answers regarding this request for proposals, among its provisions. A copy of the standard clauses that set forth the general terms and conditions, as required in all contracts awarded by the Department, is posted on the Department's website at www.agmkt.state.ny.us. Upon agreement by the contractor and the Department to the provisions of the contract, it will be submitted for approval to the Attorney General of the State of New York and the Comptroller of the State of New York.

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

LIABILITY

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

OTHER CONSIDERATIONS

The Department reserves the right to:

- reject any or all proposals received with respect to this RFP;
- waive or modify minor irregularities in proposals received after prior notification and concurrence of the bidder;
- request from a bidder additional information as deemed necessary to more fully evaluate a proposal;
- amend the project's specifications after its release, with appropriate written notice to all potential bidders;
- eliminate non-material requirements not met by all bidders,
- select only certain portions of a proposal for funding;
- make all final decisions with respect to the amount of State funding and the timing of payments to be provided to a successful contractor; and
- negotiate the terms of the budget.

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

FREEDOM OF INFORMATION

All proposals submitted and all related contracts and reports may be subject to disclosure under the Freedom of Information Law, Public Officers Law, Article b. Bidder's financial and proprietary information clearly marked as such will be received and accepted as confidential information and would not be subject to disclosure.

TERMS OF AGREEMENT

The Department will award a contract to the successful bidder for a twelve month term. The contract will incorporate this RFP 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 RFP. (See Attachment 1) The initial contract is 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.

APPENDIX A

Appendix A, which is posted on the Department's website at 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 RFP, 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.

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.

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 (See Att. 6)

The successful bidder will be required to submit the attached Submission Format: "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 15th of each year of this Agreement. Such report shall include employment data for the most recently concluded State fiscal year (April 1- March 31).

WORKERS COMPENSATION AND DISABILITY INSURANCE REQUIREMENTS

The Workers 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 Workers Compensation Board on a form approved by the Workers 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 4)

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

NYS STANDARD CONTRACTOR VENDOR RESPONSIBILITY QUESTIONNAIRE

Bidder agrees to fully and accurately complete the Contractor Responsibility Questionnaire, which is attached as Attachment 5 (hereinafter the "Questionnaire"). The Bidder acknowledges that the Department's execution of the Contract will be contingent upon the Department's determination that the Bidder is responsible, and that the Department will be relying upon the Bidder 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.

Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. 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>. For direct VendRep

System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email [at helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us). Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the State Agency or the Office of the State Comptroller for a copy of the paper form.

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 7 -- “Guidelines Regarding Permissible Contacts During a Procurement and The Prohibition of Inappropriate Lobbying Influence”.) An offeror/bidder is restricted from making contacts from the earliest notice of intent to solicit bids/proposals through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, are identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offeror/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period, the offeror/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found in the Department’s Guidelines, which are attached, and on the Office of General Services Website: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

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

Diane Goetke
Division of Plant Industry
Telephone: (518) 457-2087
Fax: (518) 457-1204
Diane.Goetke@agmkt.state.ny.us

State of New York
A Comprehensive Statewide Strategy for the Management of
Invasive Species in New York State

Registration for Pre-proposal Conference
 To be held April 21, 2009
 Submit Registration Form by 4:30 PM on April 9, 2009

Official Contact	
Company Name	
Street Address	
City, State, Zip	
Phone Number	
Fax Number	
Email Address	
Other Attendees	

Form must be received by 4:30 PM, April 9, 2009

Fax to: Melissa Heath
 (518) 457-1204

A fax confirmation of receipt will be returned to sender. If you do not receive a confirmation within 1 business day, please call Melissa Heath at (518) 457-2087.

For Office Use Only:

Potential Bidder Attended YES _____ NO _____

AGREEMENT

Attachment 2

<p>New York State Department of Agriculture and Markets 10B Airline Drive Albany, NY 12235-0001 Agency Code 06000</p> <p>Contract Authority: Agriculture and Markets Law Article 16, §§ 192-a & 192-c; Chapter _____ of the Laws of 200__</p>	<p>Contract Number: _____</p> <p>Amount of Agreement: \$ _____</p> <p>Contract Period: _____ to _____</p> <p>Renewal Period: _____</p> <p>Federal ID: _____</p>
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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: _____

THIS AGREEMENT INCLUDES THE FOLLOWING:

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

FOR AMENDMENTS CHECK THOSE THAT APPLY:

- | | |
|--|---|
| <ul style="list-style-type: none"> <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 _____ | <p>If Increase/Decrease in Amount:</p> <p>Previous Amount: \$ _____</p> <p>Increase/decrease _____</p> <p>New Total: \$ _____</p> |
|--|---|

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

CONTRACTOR

NYS DEPARTMENT OF AGRICULTURE & MARKETS

Signature of Contractor's Authorized Representative: _____

Signature of Authorized Official: _____

Date: _____

Date: _____

Typed or Printed Name of Above Representative: _____

Typed or Printed Name of Above Official: _____

Title of Authorized Representative: _____

Title of Authorized Official _____

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.

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, Comptroller
 By: _____
 Date: _____

APPENDIX D

GENERAL CONDITIONS FOR AGREEMENTS

NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

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

PAYMENT

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

The **Contractor** shall submit all requests for payment and reports to the following address: NYS Department of Agriculture and Markets, Division of Fiscal Management, 1 Winner's Circle, Albany, NY 12235. Invoices, Standard Vouchers and any reports will not be considered received by the **Department** and any interest which may be due the **Contractor** will not begin to accrue until they have been received by the Division of Fiscal Management.

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

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

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

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

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

PAYMENT CONTINGENCY

Funds for payment under this Agreement are provided to the **Department** through appropriations from the New York State Legislature. These appropriations are made on a fiscal year basis. New York State's fiscal year begins on April 1 of each calendar year and ends on March 31 of the following calendar year. Funds for payments under this Agreement were or are expected to be appropriated to the **Department** during fiscal year . 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 is (\$) 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 or subcontractors, shall be in any way deemed to be employees or agents of the **Department** or of the State of New York in performing the work under this Agreement.

DEVIATION FROM WORK

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

TERMINATION

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 RFP 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.

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 RFP, 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**.

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

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

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

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

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

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

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

Signature _____

Name (Typed) _____

Company Position _____

Company Name _____

Date Signed _____

Sworn to before me this

_____ day of _____, 2008

Notary Public

Signature _____

Name (Typed) _____

Company Position _____

Company Name _____

Date Signed _____

Sworn to before me this

_____ day of _____, 2008

Notary Public

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

STIPULATION

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

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

_____ 1. The Contractor, and any individual or legal entity in which the Contractor holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership interest in the Contractor has no business operations in Northern Ireland.

_____ 2. The Contractor, and any individual or legal entity in which the Contractor holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership interest in the Contractor shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles and shall permit the independent monitoring of their compliance with such principles.

Dated: _____

Attachment 5

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

1. CONTRACTOR NAME:

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

3. D/B/A — Doing Business As (if applicable):

COUNTY FILED:

4. DO YOU USE, OR HAVE YOU USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, OR D/B/A OTHER THAN WHAT IS LISTED IN QUESTIONS 1-3 ABOVE?

YES

NO

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

6. WEBSITE ADDRESS (if applicable):

7. Address:

Street:

City:

State:

Zip Code:

County:

Telephone Number: ()

Fax ()
Number:

8. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE:

9. AUTHORIZED CONTACT FOR THE PROPOSED CONTRACT:

Name:

Name:

Title:

Title:

Telephone ()
Number:

Telephone ()
Number:

E-Mail:

E-Mail:

Fax Number: ()

Fax Number: ()

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

Business Corporation

State of Incorporation:

Sole Proprietor

State/County filed in:

Attachment 5

General Partnership **State/County filed in:**

Not-for-Profit Corporation **Charities Registration**
or Identification Number:

Limited Liability Company **Jurisdiction filed in:**
(LLC)

Limited Partnership **State/County filed in:**

Individual

Other—Specify: **Jurisdiction**
Filed (if
applicable):

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

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

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

If yes, list the certification: _____

13. WITHIN THE PAST FIVE YEARS, HAS THE CONTRACTOR, ANY AFFILIATE¹, ANY OWNER OR OFFICER OR MAJOR STOCKHOLDER (5% OR MORE SHARES) OR ANY PERSON INVOLVED IN THE BIDDING OR CONTRACTING PROCESS BEEN THE SUBJECT OF ANY OF THE FOLLOWING:

- (a) a judgment or conviction for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct? Yes No
- (b) a criminal investigation or indictment for any business related conduct constituting a crime under federal, state or local government law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing or bid collusion or any crime related to truthfulness and/or business conduct? Yes No
- (c) an unsatisfied judgment, injunction or lien for any business related conduct obtained by any federal, state or local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any federal, state or local government agency? Yes No
- (d) an investigation for a civil violation for any business related conduct by any federal, state or local agency? Yes No
- (e) a grant of immunity for any business-related conduct constituting a crime under federal, state or local governmental law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct? Yes No
- (f) a federal, state or local government suspension or debarment from the contracting process? Yes No
- (g) a federal, state or local government contract suspension or termination for cause prior to the completion of the term of a contract? Yes No

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

- (h) a federal, state or local government denial of a lease or contract award for non-responsibility? Yes No
- (i) an administrative proceeding or civil action seeking specific performance or restitution in connection with any federal, state or local contract or lease? Yes No
- (j) a federal, state or local determination of a willful violation of any public works or labor law or regulation? Yes No
- (k) a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license? Yes No
- (l) a consent order with the New York State Department of Environmental Conservation, or a federal, state or local government enforcement determination involving a violation of federal, state or local government laws? Yes No
- (m) an Occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful? Yes No
- (n) a rejection of a bid on a New York State contract or a lease with the state for failure to comply with the MacBride Fair Employment Principles? Yes No
- (o) a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
 - federal, state or local health laws, rules or regulations Yes No
 - unemployment insurance or workers' compensation coverage or claim requirements Yes No
 - ERISA (Employee Retirement Income Security Act) Yes No
 - federal, state or local human rights laws Yes No
 - USCIS (U.S. Citizenship and Immigration Services) and Alienage laws Yes No
 - Sherman Act or other federal anti-trust laws Yes No
- (p) an agreement for a voluntary exclusion from contracting with a federal, state or local governmental entity? Yes No
- (q) a denial, decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status? Yes No
- (r) a rejection of a low bid on a federal, state or local contract for failure to meet statutory affirmative action or Minority or Women's Business Enterprise or Disadvantaged Business Enterprise status requirements on a previously held contract? Yes No
- (s) a finding of non-responsibility by an agency or authority due to a violation of State Finance Law 139-j? Yes No
- (t) a bankruptcy proceeding Yes No

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

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

- (a) FILE RETURNS OR PAY ANY APPLICABLE FEDERAL, STATE OR LOCAL GOVERNMENT TAXES?** Yes No
- If yes, identify the taxing jurisdiction, type of tax, liability year(s) and tax liability amount you failed to file/pay and the current status

of the liability: _____

(b) PAY NEW YORK STATE UNEMPLOYMENT INSURANCE?

Yes No

If yes, indicate the years you failed to file/pay the insurance and the current status of the liability:

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

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

17. IF A NOT-FOR-PROFIT ORGANIZATION, ARE YOU UP TO DATE IN FILING REQUIRED REPORTS WITH THE NEW YORK STATE ATTORNEY GENERAL'S CHARITIES BUREAU PURSUANT TO EPTL §8-1.4 AND NEW YORK STATE EXECUTIVE LAW ARTICLE 7-A? Yes No
 N/A

CONSULTANT SERVICES CONTRACTOR'S EMPLOYMENT REPORTS

Instructions for Completing Forms A and B

- **Scope of Contract (Form B only):** a general classification of the single category that best fits the predominate nature of the services provided under the contract.
- **Employment Category:** the specific occupation(s), as listed in the O*NET occupational classification system, which best describe the employees providing services under the contract. (Note: Access the O*NET database, which is available through the United States Department of Labor's Employment and Training Administration, on-line at online.onetcenter.org to find a list of occupations.)
- **Number of Employees:** the total number of employees in the employment category employed to provide services under the contract during the Report Period, including part time employees and employees of subcontractors.
- **Number of hours (to be) worked:** for Submission Format, the total number of hours to be worked, and for Form B, the total number of hours worked during the Report Period by the employees in the employment category.
- **Amount payable under the Contract:** the total amount paid or payable by the State to the State contractor under the contract, for work by the employees in the employment category, for services provided during the Report Period.

Reports that are submitted to the Department must be transmitted as follows:

- By mail: NYS Department of Agriculture & Markets
Division Fiscal Management
10B Airline Drive
Albany, NY 12235
- By fax: (518) 485-7750

Reports that are submitted to the Office of the State Comptroller must be transmitted as follows:

- By mail: NYS Office of the State Comptroller
Bureau of Contracts
110 State Street. 11th Floor
Albany, NY 12236
Attn: Consulting Reporting
- By fax: (518) 474-8030 or (518) 473-8808

Reports that are to be submitted to the Department of Civil Service must be transmitted as follows:

- By mail: NYS Department of Civil Service
Alfred E. Smith Office Building
Albany, NY 12239

OSC Use Only:

Reporting Code:

Category Code:

FORM B

**State Consultant Services
Contractor's Annual Employment Report
Report Period: April 1, to March 31,**

Contracting State Agency Name: _____ Agency Code: _____
 Contract Number: _____
 Contract Term: / / to / /
 Contractor Name: _____
 Contractor Address: _____
 Description of Services Being Provided: _____

Scope of Contract (Choose one that best fits):

- Analysis Evaluation Research Training
 Data Processing Computer Programming Other IT consulting
 Engineering Architect Services Surveying Environmental Services
 Health Services Mental Health Services
 Accounting Auditing Paralegal Legal Other Consulting

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
Grand Total			

Name of person who prepared this report: _____
 Preparer's Signature: _____
 Title: _____ Phone #: _____
 Date Prepared: / /

Use additional pages if necessary) _____ Page of

Please submit one copy of this form to the following:

**NYS Office of the State Comptroller
 Bureau of Contracts
 110 State Street, 11th Floor
 Albany, NY 12236
 Attn: Consulting Reporting
 Fax: (518) 474-8030 or (518) 473-8808**

**NYS Dept. of Civil Service
 Alfred E. Smith Office Bldg
 Albany, NY 12239**

**NYS Dept. of Agriculture & Markets
 Division of Fiscal Management
 10 B Airline Drive
 Albany, NY 12235
 Fax: (518) 485-7750**



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

Attachment #7
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 Offerors² during the procurement process. The Lobbying Law applies to all procurements initiated on or after January 1, 2006. In this regard, a procurement means a contract or agreement involving an annual expenditure in excess of \$15,000 for a commodity, service, technology, public work, or construction; purchase, sale or lease of real property; or revenue contract.

In conformity with the Lobbying Law, during a procurement’s restricted period³ 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 or any other solicitation method;
- submission of written questions as part of an RFP 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 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.

² 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.

³ 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 #7
Guidelines Regarding Permissible Contacts
During a Procurement and the Prohibition of
Inappropriate Lobbying Influence

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 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 or other solicitation method must:

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

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

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

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

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

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

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**

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

Form 2

Instructions:

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

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

Offeror Affirmation and Agreement

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

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



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

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

Form 1

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:		

SUBMISSION FORMAT
TECHNICAL COMPONENT

Instructions:

1. Please provide all the information requested. The information provided in this form will be used for the technical evaluation of the proposal. Failure to provide all information requested may result in a reduced rating or disqualification of a proposal.
2. Please type all information.

PART A. BIDDER INFORMATION

Name:

Address:

Principal Contact:

Name:

Address:

Phone/Fax:

E-mail:

PART B. QUALIFICATIONS:

Bidder must demonstrate and describe qualifications to undertake the study in terms of the following:

- Experience and success with projects similar in scope and complexity.
- Multi-disciplinary team of experts. A project staffing plan including a list of the names of all personnel to be used in the project (and referenced in Form B "Cost and Fee Summary") is required. You must also attach professional biographies of all key personnel.
- Reference checks that demonstrate overall satisfaction of the client with performance in areas of timeliness, budget and quality of completed work. The names and phone numbers of 3 references is requested.
- An oral presentation, if needed, with bidder exhibiting clarity, organization and validity of proposed research strategies, work plans and methodologies.
- Experience with and knowledge of current invasive species legislation, reports, initiatives, and programs at all levels - state, federal and local.

PART C. WORK PLAN:

Bidder's plan must demonstrate an understanding of the underlying issues and objectives of the study including a description of an initial approach in development of a statewide comprehensive management plan addressing invasive species in NY State.

Bidder's plan of work must address each of the following:

- How interaction with key state agency authorities will be accomplished to gather information pertaining to the interpretation of statutes, regulations and the philosophies of their application, including a timeline for outreach to public and private sector organizations and interviews with key organization personnel.
- How will the relationships of state agencies with federal, private sector cooperators and regulated parties be identified; demonstrate how information will be compiled to identify existing coverage and programs, overlapping laws and authorities, gaps, strengths and weaknesses in invasive species networks and opportunities for an improved framework for addressing invasives issues in the State.
- Describe how the information will be integrated to provide a scope that meets the requirements outlined in ECL Article 9-1705.5(c).

COST AND FEE COMPONENT SUMMARY

A Comprehensive Statewide Strategy for the Management of Invasive Species in New York State

ALL BIDDERS MUST COMPLETE AND SUBMIT THIS FORM
PRESENT YOUR PROPOSED BUDGET (NOT TO EXCEED \$100,000)

	<u>Service</u>		<u>Cost</u>
1.	Professional service		_____
	<u>Staff</u>	<u>Hours x Rate</u>	
	1)		
	2)		
	3)		
	4)		
	5)		
2.	Non-professional service		_____
	<u>Staff</u>	<u>Hours x Rate</u>	
	1)		
	2)		
	3)		
	4)		
	5)		
3.	Subcontracted services		_____
4.	Supplies, equipment, telephone		_____
5.	Printing, including printing 100 copies of final report		_____
6.	Travel and Other Incidental Expenses (please specify)		_____

			Total Cost
			(sum of all above costs)

Attach additional sheets as necessary

Checklist

- () Technical Component Submission Format
- () Cost Component (Form B)
- () Non-Collusive Bidding Certification Required by Section 136-D of the State Finance Law (Attachment 3)
- () MacBride Form (Attachment 4)
- () Contractor Responsibility Questionnaire (Attachment 5)
- () Consultant Services Contractor's Form A (Attachment 6)
- () Procurement Lobbying Form 2 (Attachment 7)
- () Questions and Answers and Other Addendum