

New York State Department of Agriculture and Markets

Request for Proposals

Grandstand Tickets

New York State Fairgrounds

This Request for Proposals (RFP) issued by the Department of Agriculture and Markets of the State of New York (Department) seeks proposals for a ticketing system for concert events to be held at the Grandstand at the New York State Fairgrounds (Onondaga County), Syracuse, New York during the 12 (twelve) day State Fair beginning on August 23, 2012 and ending on Labor Day, September 3, 2012.

Proposals must be received in hand by the Department no later than 3:00 PM local time on April 6, 2012. Proposals must be addressed to:

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

Submit an original and three (3) copies of your proposal in a sealed envelope or package. Mark "Grandstand Tickets" on the envelope or package. Proposals may not be submitted electronically or by fax. Your proposal must be in three parts, Part 1 marked "**Minimum Qualifications**", Part 2 marked "**Technical Proposal**" and Part 3 marked "**Fee**".

Inquiries about this RFP shall be directed to Emma Graham, in writing at the above address, or via email to emma.graham@agriculture.ny.gov and received no later than March 23, 2012. No telephone inquiries will be accepted. All questions and answers will be posted on the Department's website, www.agriculture.ny.gov in the "Funding Opportunities" section. Answers will be posted no later than March 30, 2012. The questions and answers, when posted, are part of this RFP.

Revision/Addenda to the Request for Proposal

If this RFP is revised or modified, the revisions or modifications will be posted on the Department's website, www.agriculture.ny.gov, under "Funding Opportunities". All proposers are responsible for keeping informed of any revisions to the RFP. The Department reserves the right to change any of the below scheduled event dates. Any changes will be posted on the Department's website, www.agriculture.ny.gov, under "Funding Opportunities". Proposers are responsible for keeping informed of any changes in the schedule:

Schedule

RFP Issued – March 6, 2012
Last Date for Inquiries – March 23, 2012
Responses to Inquiries – March 30, 2012
Proposals Due – April 6, 2012
Selection – on or before April 13, 2012

Introduction

The New York State Department of Agriculture and Markets (Department) seeks proposals for a vendor who will issue paperless tickets in compliance with New York State Arts and Cultural Affairs Law §25.30 and provide a means of verifying/scanning those tickets upon entrance, at no cost to the Department, for concert events held at the Grandstand during the annual 12-day New York State Fair (Fair) at the New York State Fairgrounds (Fairgrounds), Town of Geddes, Syracuse, New York. The Department is a civil department within the executive branch of the State of New York and the contract, if awarded, will be between the selected proposer and the Department, acting by and on behalf of the State of New York.

Background

The Department operates the Fairgrounds and presents the annual New York State Fair, twelve (12) days long, ending on Labor Day each year.

The Fair attracts over 900,000 patrons and includes concerts and entertainment presented at a 17,000 seat Grandstand. Grandstand attendance at concerts has averaged approximately 10,000 per event during the last three years, and ticket prices have averaged between \$50 - \$70. Attachment A is the floor plan of the Grandstand and Map of the Fair Grounds, and Attachment B provides three years of concert attendance statistics.

In recent years, entry to the Fair and entry to the Grandstand have been by paper ticket, with a Grandstand ticket also allowing entry to the Fair. In 2012, a Paperless Grandstand Ticket will allow entry to the Fair through Gate 1 and Gate 10 and to the Grandstand concert event.

For 2012, 5 concerts events are planned to be held at the Grandstand. The concert events will be built by the Department and then the information provided to the selected proposer (seating, pricing, etc.) for setup, unless the selected proposer's system has the capability to allow for the Department to handle the setup.

There are no refunds for Grandstand ticket sales unless the show is cancelled (however, there has not been a cancellation in the last ten years.) It has been the Department's policy that in the event of a cancellation, there should be no cancellation fee or service fee charged by the ticket provider for a refunded ticket.

Term of Agreement

Services will be provided for a one-year period commencing with the execution of a contract, with the option of four 1-year renewals solely at the discretion of the Department. During the term of agreement the contractor will:

1. Agree to be responsible for the security of the System and for the protection of all data and information collected by and through the System. Data protection measures shall comply with current industry data protection standards and federal, state and local laws, rules and regulations.
2. Agree that all System data is the property of the Department. Every year the selected proposer must provide an extract of all of the Department's data within 45 days after the end of the Fair. Data must be in an agreed upon format, such as either xml or ascii

delimited, and must include a data dictionary or other documentation to define and describe the contents of the data extract. Once a format for the data extract is agreed upon, it cannot be changed without consultation and approval of the Department.

3. Assure that all Department-owned data will reside on servers located in the continental United States.
4. Assure that your System will not require access to the Department's current network resources at the Fairgrounds, shall remain physically segregated from the Department's network including switches, routers, links and firewalls, and shall utilize an internet connection separate from the Department's connection. Cost for internet connection as required will be the responsibility of the contractor.
5. Assure the system includes redundancy to prevent loss of service or data in the event of a partial or full system failure. Spare hardware shall be included wherever appropriate to reduce downtime from failures.
6. Agree that at the end of the contract, any fiber that has been installed will become property of the Department. Removal of equipment must be coordinated with Department staff.
7. Assure the system is capable of sales, refunds, transfers and exchanges within its own modality.
8. Assure your system complies with New York State Arts and Cultural Affairs Law §25.30 (see Attachment C).
9. Provide a performance bond or equivalent in the amount of \$5 million in the name of the Department.
10. Agree the system will have to ability to sell tickets for Grandstand Concert Events no later than June 1, 2012.

Part 1 - Minimum Qualifications

The following minimum qualifications must be met in order for the Department to be able to consider your proposal:

1. You must be presently in the business of providing a ticketing system for entertainment venues with a seating capacity of 15,000 individuals which hosts a minimum of five (5) events annually.
2. You must have a minimum of three (3) consecutive years of documentable and verifiable experience in providing ticketing systems which must include the provision of such services as described in #1, above, during the period 2009-2011.
3. You must provide a minimum of three (3) references from entities that are currently using your system that may be contacted by a Department staff member for verification.

Part 2 - Technical Proposal

Your proposed System will be rated and ranked based upon your description and demonstration of the following attributes:

1. Your System's ability to provide "paperless" entry using a credit/debit card or other form of identification or electronic devices that can be scanned or swiped at the Gates 1 and 10 for entrance to the Fairgrounds and at the Grandstand for entrance to the concert event. In particular, explain how your system will address the transfer of a paperless ticket to a person without a credit card or other form of identification or electronic device, for example an underage child attending a concert without a parent present. Your proposed process must describe / show how it complies with New York State Arts and Cultural Affairs Law §25.30 (see Attachment C).
2. Your System's capability of ticket sales, including "interactive seating," refunds, transfers, and exchanges.
3. How your System prevents fraud, for example, preventing double entry using the same ticket.
4. How your System provides for assigned seating if a patron has purchased a paperless ticket, thus allowing ushers to sort out seating disputes.
5. Your System's ability to brand websites, marketing and other customer interfaces by the State Fair, not the selected proposer.
6. How your System will enable pre-sale of tickets via the Department's website and at the Box Office.
7. How your System will enable "day of" ticket sales via the Department's website and at the Box Office.
8. Your System's ability to control entry to the Grandstand by linking scanners with a turnstile or equivalent to prevent operation of the turnstile or equivalent without authorization from the scanners. The system must have the ability to scan tickets at Gate 1 and Gate 10 for entrance to the Fairgrounds.
9. Your System's ability to provide for the refund of the face value of a ticket to the original purchaser in the event of an unforeseen cancellation of an event that cannot be otherwise accommodated within that respective year's Fair.
10. How your System will provide role-based, real-time access by the Department to all Department information including but not limited to attendance figures and ticket sales information for ad-hoc reporting and data analysis. For example, at the Department's discretion, auditors will analyze sales and view transaction correction reports, managers will access attendance figures and latest sales information, and system administrators will access throughput and response information.

11. How your System will provide for daily financial reporting, settlements, and information regarding revenue that is to be deposited to State Fair accounts. Revenue must be deposited to State Fair accounts weekly, at a minimum.
12. How your System will provide performance metrics for purchase and admittance activities, for example, average response time for ticket purchase, expected acknowledgement time for ticket purchases, and average scan to acknowledgement time.
13. Your training program for State Fair staff, including Box Office, gate staff and ushers, and for administrative staff with regard to generating reports from the System.
14. A schematic drawing of your proposed ticket scanning infrastructure. All end-point and other needed equipment must be noted on the schematic and must be provided by the selected proposer. **Do not** assume that Department equipment will be used.

Part 3 – Fee

Each proposer must set forth the Fee in dollars (no percentages) the proposer will charge to provide the System. Use the attached “Fee Sheet”. Do not make any changes to the Fee Sheet.

The fee per ticket for Grandstand admission shall be added to the face value of the ticket. It will be borne by the ticket purchaser. The Fee shall be sufficient to include all System and proposer operating, equipment costs, issuance, and processing charges borne by the successful proposer. The fee to be charged must be expressed in dollars and/or cents per ticket.

Proposers must agree to charge credit card processing fees to customers at the same rate paid by the proposer for credit services, i.e., there can be no mark-up or additional service fee, other than that actually charged by the credit card company. The selected proposer will be required to submit copies of agreements with the various credit card purveyors so that the respective rates may be established.

Submittal of Proposals

Proposers shall submit their proposal in a sealed envelope or package marked “Grandstand Ticketing.” Inside the package, place three separate parts, each sealed in a separate envelope:

Part 1 – Minimum Qualifications: To contain the information set out in items 1 through 3 in the Minimum Qualifications section of this Request found on page 3. The envelope shall be marked with the proposer’s name, the words “Grandstand Ticketing” and “Minimum Qualifications”.

Part 2 – Technical Proposal: To contain the proposer’s offer, fully explained, identifying the proposer’s solution to the Ticketing System sought as set out in the Technical Proposal section of this Request found in items 1 through 14 on pages 4 and 5. The envelope shall be marked with the proposer’s name, the words “Grandstand Ticketing” and “Technical Proposal”.

Part 3 – Fee: The envelope shall be marked with the proposer’s name, the words “Grandstand Ticketing” and “Fee”. Use the attached Fee Sheet. Do not make any changes to the Fee Sheet.

Department Provided

The Department will provide power and conduit if needed.

Selected Proposer Provided

The selected proposer shall provide all fiber, connections, hardware, wireless points and other equipment and software required. All on-site work performed by the selected proposer must be coordinated with Department staff. All cabling and equipment should be labeled and neat. No aerial fiber or communications cable may be used for the purpose of this project. All installations must meet industry best practices and standards. The Department and other on-site infrastructure must not be affected by the proposed system. At the end of the contract, any installed fiber will become and remain the property of the Department.

Training and Support

The selected proposer shall provide training and support to Department staff as expeditiously as possible upon completion and testing of the System. Training of State Fair staff with regard to Box Office ticket sales and ad hoc reporting must be completed by May 16, 2012. The system must be operational (have the ability to sell tickets for Grandstand Concert Events) no later than June 1, 2012.

User documentation and manuals shall be provided by the selected proposer.

The selected proposer shall provide on-site representation physically located on the Fairgrounds for System support and maintenance no less than seven (7) calendar days prior to opening day and shall remain until the close of the Fair.

Proposal Validity

Each proposal shall be deemed valid for a period of one hundred twenty (120) days from the proposal due date.

Branding

All tickets issued, websites, and other marketing shall “brand” the New York State Fair and no other branding or advertising shall be permitted.

Selection Process

Proposals that do not meet the Minimum Qualifications will not be considered.

The successful proposer will be selected based upon an evaluation of each proposer’s technical proposal by a selection committee composed of Department officers and employees and the evaluation of each proposer’s Fee by the Department’s Division of Fiscal Management.

The points awarded for the technical evaluation and the fee evaluation will be combined to determine the final score and ranking of proposals.

Technical Component: 70 points.

Below are the rating categories and the weights (in points) of each:

1. The System's capacity to provide "paperless" entry using a credit/debit card or other form of identification or electronic devices that can be scanned or swiped at the gate (5 points).
2. The System's management of ticket sales, including "interactive seating," refunds, transfers, and exchanges (5 points).
3. The System's design for prevention of fraud (5 points).
4. The System's management of assigned seating and, in the case of a paperless ticket, how it will allow the ushers to sort out seating disputes (5 points).
5. The System's ability to brand websites, marketing and other customer interfaces by the State Fair, not the selected proposer (5 points).
6. The System's design for pre-sale of tickets via the Department's website and at the Box Office (5 points).
7. The System's design for "day of" ticket sales via the Department's website and at the Box Office (5 points).
8. The System's capacity to control entry by linking scanners with a turnstile or equivalent to prevent operation of the turnstile or equivalent without authorization from scanners (5 points).
9. The System's ease of provision of a refund of the face value of a ticket to the original purchaser in the event of an unforeseen cancellation of an event that cannot be otherwise accommodated within that respective year's Fair (5 points).
10. The System's design for role-based, real-time access to Department information including but not limited to attendance figures and ticket sales information for ad-hoc reporting and data analysis (5 points).
11. The System's daily financial reporting, settlements, and information regarding revenue that is to be deposited to State Fair accounts, and ability to deposit revenue to State Fair accounts weekly, at a minimum (5 points).
12. The System's design for provision of performance metrics for purchase and admittance activities (5 points).
13. The proposer's training program for State Fair staff, including Box Office, gate staff, ushers, and administrative staff that must be versed in the reporting systems (5 points).

14. The overall design of the System as evidenced by the schematic drawing of the proposed ticket scanning infrastructure, which must be independent of the Department's systems (5 points).

Fee Component: 30 points.

Points will be determined for each component using this formula:

$$30 \quad \times \quad \frac{\text{lowest fee}}{\text{fee being evaluated}}$$

Proposals will be ranked in order of highest to lowest score. The proposal with the highest ranked score will be recommended for funding.

Reservation of Rights

The Department reserves the right to:

- Reject any or all proposals received with respect to this request;
- Decline to award a contract from this request;
- Require clarification from any proposer to assure a full understanding of the responsiveness to the requirements of the request;
- Waive or modify minor irregularities in proposals received;
- Request from proposer additional information deemed necessary to more fully evaluate its proposal or to provide or supplement required forms. Proposers will have three (3) business days to respond to the request;
- Amend this request after its release, with appropriate written notice posted on the Department's website; and
- Negotiate with any or all proposers within the request requirements, in the best interest of New York State.
- Waive a mandatory requirement if unmet by all proposers.

Notification of Award

The Department will notify the selected proposer in a written confirmation. Unsuccessful proposers will be notified by the Department within ten business days after the award.

Debriefing – Protest

Pursuant to section 163(9)(c) of the State Finance Law, an unsuccessful proposer has the right to a debriefing. An unsuccessful proposer must request a debriefing within thirty (30) days from the date of the notification of the award. To request a debriefing contact Emma Graham, Division of Fiscal Management, in writing or via e-mail at emma.graham@agriculture.ny.gov.

An unsuccessful proposer may protest the award by filing a protest, in writing, with the Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, New York 12236.

New York Law

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

Approvals

The contract shall be subject to the approval of the Attorney General of the State of New York and the Comptroller of the State of New York.

NYS Standard Vendor Responsibility Questionnaire

The proposer shall fully and accurately complete the Vendor Responsibility Questionnaire, (“Questionnaire”). The proposer acknowledges that the Department’s execution of the contract will be contingent upon the Department’s determination that the proposer is responsible, and that the Department will be relying upon the proposer’s responses to the Questionnaire in making that determination. If it is found by the Department that the proposer’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 or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>. 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.

Appendix A

Appendix A which is attached to this RFP contains standard clauses that are required in all State contracts and will be a part of any contract awarded and the successful proposer will be responsible for complying with the terms and conditions contained therein.

Certification Pursuant to NYS Tax Law Section 5-A

Pursuant to Tax Law Section 5-a, you are required to certify to the New York State Tax Department that you are registered to collect New York state and local sales and compensating use taxes, if you made sales of tangible personal property, delivered by any means, to locations within New York or you provided taxable services, having a cumulative value in excess of \$300,000 measured over a specified period. In addition, you must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York state and local sales and compensating use taxes. You must also certify to the procuring State agency that affiliates and subcontractors have filed a correct and complete certification with the Tax Department. The successful proposer 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 proposer will be required to complete and submit the Contractor Certification Forms within three (3) business days from the date of the request. Failure to respond timely may render a proposer non-responsive and non-responsible. Proposers shall take the necessary steps to provide properly certified forms, within a timely manner, to ensure compliance with the law. You may call the Tax Department at 1-200-698-2931 for all questions regarding 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.tax.ny.gov/pdf/publications/sales/pub223.pdf> .

Minority & Women Owned Business Equal Opportunities & Goals

See Clause 12, Equal Employment Opportunities for Minorities and Women, in Appendix A. For this contract the Department has established the following goals:

- Minority business enterprises 10%
- Women owned business enterprises 10%
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See Attachment D for additional Minority & Women Owned Business Equal Opportunities & Goals requirements.

MacBride Fair Employment Principles

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. Proposers must sign the attached certification of non-discrimination.

Summary of Department's Policy Regarding State Finance Law Sections 139-j & 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/proposer during the procurement process. An offeror/proposer is restricted from making contacts from the earliest notice of intent to solicit proposals/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/proposer 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/proposer is debarred from obtaining governmental procurement contracts. Further information about these requirements can be found on the Office of General Services Website at <http://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html>. The Department has designated the following staff members to receive contacts pertaining to this proposal:

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

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

Non-Collusive Bidding Certification

New York State requires that you certify under the penalty of perjury that your proposal was arrived at independently. The non-collusive proposal certification is attached and must be executed and returned with your proposal.

Contract Termination

The contract will contain a provision which authorizes the Department to terminate the contract if any of the information you provided in the documents making up the Standard Contract Provisions is intentionally incomplete or intentionally false. If contract termination is proposed, you will be notified and given an opportunity to explain why you believe the contract should not be terminated.

Workers' Compensation & Disability Benefits Insurance

Pursuant to sections 57 and 220 of the State's Workers' Compensation Law, no State agency may enter into a contract with a vendor until the vendor produces proof that it has secured workers' compensation and disability benefits insurance. Proposers must include, as part of

their proposal, a C-105.2 form and a DB-120.1 form completed and certified by their insurance carrier, attesting to the existence of proper insurance coverage. The insurance coverage must be under the company name, federal employer identification number and policy number issued to the proposer. New York State does not accept ACORD forms. Please see the Workers' Compensation Board's website at www.wcb.state.ny.us for more information.

Restrictions on Communications with Department of Agriculture and Markets and Division of the State Fair Staff

Proposers shall make no unsolicited contact with any Department or Division personnel regarding this proposal, except that proposers may contact Emma Graham in writing or by email at emma.graham@agmkt.state.ny.us.

Cost Liability

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

Freedom of Information

The selected proposer's proposal and any contract resulting from this request for proposals are subject to the provisions of New York's Freedom of Information Law, Public Officers Law, Article 6.

**Ticketing System
Part 3 - Fee Sheet**

This form must be completed. Only those proposals with a completed Fee Sheet will be accepted for review. All other cost proposal formats will be disqualified.

Component 1 – Grandstand Admission

Fee to Purchaser per Ticket: _____

Reminder: the Fee proposed must be exclusive of any credit card fees which will be passed-through at actual value (i.e. there should be no mark-up or service fee for credit services, other than that charged by the credit purveyor.)

The lowest total fee offered earns 30 points. Each of the other proposer's fees will be compared to the lowest fee and given a score based on this formula:

$$30 \quad \times \quad \frac{\text{lowest total fee}}{\text{fee being evaluated}}$$

Company Name

Signature of Proposer Authorized Representative and Title

Print Name and Title of Representative Signing Above

Date

**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://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' procedures regarding permissible Contacts as required thereby.

Name of
Offeror:

By:

(Signature)

Name:

Title:

Address:

Date:

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address:

Name and Title of Person Submitting this Form:

Contract Procurement Number:

Date:

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No

Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):

No

Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No

Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____
Signature

Name: _____

Title: _____

**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 Proposal is submitted to Agriculture and Markets, the Offeror/Proposer 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 Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

Name of Offeror: _____

By: _____
(Signature)

Name: _____

Title: _____

Address: _____

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 on “contacts” during the procurement process; and Section 139-k addresses the disclosure of contacts and the responsibility of Offerors¹ 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 period² 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-proposal 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

¹ 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.

² The period of time commencing with the earliest written notice, advertisement or solicitation of a Request for Proposals “RFP”, Request for Proposals “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).

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, proposal 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 Department'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 Department'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 Vendor 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 proposal 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://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html> where Frequently Asked Questions "FAQ's" adopted by the Council have been posted.

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

BY SUBMISSION OF THIS PROPOSAL, ANY PROPOSER AND EACH PERSON SIGNING ON BEHALF OF ANY PROPOSER CERTIFIES, AND IN THE CASE OF A JOINT PROPOSAL, 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 proposal 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 Proposer or with any competitor;

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

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

A PROPOSAL 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 PROPOSER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE PROPOSER(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 _____, 2012

Notary Public

Signature _____

Name (Typed) _____

Company Position _____

Company Name _____

Date Signed _____

Sworn to before me this

_____ day of _____, 2012

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: