

INVITATION FOR BIDS

TENT RENTAL

New York State Department of Agriculture and Markets

The New York State Department of Agriculture and Markets (Department) presents the annual New York State Fair at the State Fairgrounds in Syracuse, New York for a twelve day period ending on Labor Day.

The purpose of this invitation is to retain a contractor or contractors to provide, install and maintain rigid frame and clear span tents of various sizes, tent lighting, and side panels during the annual New York State Fair (State Fair) for the Term of the contract. Tents must be clean, in excellent condition and provide a bright, cheerful and festive atmosphere for State Fair patrons.

Bids must be received in hand by the Department no later than **3:00 pm** local time on **May 9, 2011**. Bids shall be addressed to:

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

Submit an original and one (1) copy of your bid. Bids may not be submitted electronically, or by fax. Inquiries about this invitation shall be directed to Emma Graham, in writing at the above address, or via email to emma.graham@agmkt.state.ny.us, and received no later than April 25, 2011. No telephone inquiries will be accepted. All questions and answers will be posted on the Department's website, www.agmkt.state.ny.us in the "Funding Opportunities" section. Answers will be posted as quickly as possible, but no later than April 28, 2011. The questions and answers, when posted, are part of this invitation.

Addenda to Invitation for Bids

Any revisions to this invitation will be posted on the Department's website, www.agmkt.state.ny.us under "Funding Opportunities". All bidders are responsible for keeping informed of any revisions to this invitation.

Bid Schedule

Invitation Issued – April 18, 2011
Last Date for Inquiries – April 25, 2011
Responses to Inquiries – April, 28, 2011
Bids Due – May 9, 2011
Selection within 30 days

Scope of Work

The bid seeks two types of tents: standard rigid frame tents and clear span rigid frame tents, and interior lighting and sides for each type of tent. Separate bids must be submitted for each type of tent. You may submit a bid for only one type of tent, or two separate bids if you are bidding on both types of tents.

The successful bidder(s) must provide tents in the sizes listed on the bid sheets. The quantities on each bid sheet are the number of tents of the listed sizes used during the 2010 State Fair. The Department makes no representation that the sizes or the quantity of tents used in 2010 will be used in 2011 and 2012. All tents and lighting must comply with the specifications listed below. The successful bidder(s) will provide, install and maintain all tents and lighting, as required by the Department, for the duration of the State Fair.

The selected bidder(s) must have a trained and competent employee physically present on the State Fairgrounds from 8:00 am to 6:00 pm each day of the State Fair. The selected bidder(s) will also be “on-call” three (3) calendar days prior to the opening of each State Fair and must install tents not included in the Department’s initial order, as requested by the Department, within twelve (12) hours from the request.

Tents and Lighting

Specifications

Standard Rigid Frame Tents

- Free-standing with rigid frame: Anchor, Fiesta or equivalent.
- Sixty mile per hour (60 mph) wind load capacity.
- Available with eight foot (8'), ten foot (10') or twelve foot (12') interior heights and side panels to be selected by the Department, as needed.

Clear Span Rigid Frame Tents

- Tent manufacturer to be Hoecker, Losberger, Roder USA, or equivalent.
- Box beam galvanized steel or aluminum frames with flame retardant PVC fabric tops.
- Structural members 16.5' o/c with steel anchor plates.
- White translucent fabric roof panels with interior heights of ten (10) and twelve (12) feet and side panels to be selected by the Department, as needed.
- Sixty mile per hour (60 mph) wind load capacity.

General Lighting Tents

- General lighting for tents shall be at a minimum light level of 50 foot candles at floor level for the entire interior of the tent.

Tent Condition, Installation and Maintenance

All tents shall be clean, colorful, bright and in excellent condition.

All tents, tent installation and tent operation shall comply with “Subpart 45-5 *Viewing Stands and Tents*” of Title 12 of the New York Code of Rules and Regulations, as amended, administered by the New York State Department of Labor.

All fabric must be flameproof, clean and in excellent condition. All tent fabric shall meet the requirements for flame resistance contained in NFPA 701, “Standard Methods of Fire Test for Flame-Resistant Textiles and Films” 2010 edition, available from National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322 or online at www.nfpa.org. Written certification by a nationally recognized testing laboratory that the tent material complies with the foregoing standard must be provided to the Department **as part of your minimum qualifications**.

All stakes, if used, must have protective caps and all stake holes filled upon removal with filler of the same material in which the stake was placed.

All tents shall be cleaned after installation and immediately prior to the opening of the State Fair.

The selected bidder(s) shall provide a motorized cargo cart or similar vehicle to access locations which are not accessible by motor vehicle during the State Fair.

Tents and lighting will be inspected by the selected bidder(s) and the Department prior to opening of the State Fair and the selected bidder(s) shall correct, repair or otherwise eliminate defects, tears and other noted deficiencies.

Department Provided At No Cost

- Twenty four hour access to the Fairgrounds and sufficient parking space to accommodate the selected bidder(s) office, storage for spare and repair parts and cleaning equipment.
- Radio communication with Department employees.
- Electrical power and hook-ups for all tent lighting.

Schedule

Tent installation shall be coordinated with Department representatives.

All tent set-up must be complete not later than 8:00 am on the tenth (10th) day prior to the opening day of each State Fair held during the Term of the contract.

Tent removal may begin on the day immediately following the day the State Fair closes and all tents shall be removed from the Fairgrounds not later than the fifth (5th) day after close of each State Fair held during the Term of the contract.

Term

The contract will be for a two (2) year Term beginning on July 1, 2011 and ending on September 30, 2012.

Invoices and Payments

Payment shall be made by the Department only after receipt and approval of itemized invoice(s) submitted by the selected bidder. This invoice must identify the location and size of each tent and whether lighting and side panels were provided in each tent.

Payment for invoices submitted by the selected bidder shall only be rendered electronically unless payment by paper check is expressly authorized by the Department, in the Department's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The selected bidder shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the

State Comptroller's website at www.osc.state.ny.us/epay/index.htm, by email at epunit@osc.state.ny.us, or by telephone at 518-474-4032. The selected bidder acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Department has expressly authorized payment by paper check as set forth above.

Insurance

The selected bidder shall secure from a company licensed to do business in New York State public liability insurance in the amount of \$1,000,000.00 per occurrence single limit bodily injury and property damage. The New York State Department of Agriculture and Markets must be named as additional insured. The certificate of insurance must be provided to the Department within five (5) business days from notification of award.

Minimum Qualifications

Each bidder shall submit documentation showing that:

1. The bidder is currently providing tent rental services similar to those sought by this Invitation and has done so continuously during the three (3) calendar years immediately preceding submission of its bid;
2. The bidder has billed and received payment for work the same as, or similar to, that sought by this invitation for bids in the aggregate amount of \$70,000.00 in each year of the three (3) calendar years immediately preceding submission of its bid; and
3. The tent material complies with NFPA 701, "Standard Methods of Fire Test for Flame-Resistant Textiles and Films" 2010 edition.

Bid

A. Instructions

You must submit a separate bid for each type of tent and that type of tent's lighting and side panels. Two separate bid sheets are attached and must be used; one sheet is for standard rigid frame tents and one sheet is for clear span rigid frame tents.

Your bid for each type of tent must include the cost of each size tent based upon the quantities the Department used during the 2010 State Fair, the cost of interior lighting and the cost of two adjacent side panels.

The Department makes no representation that it will use the same sizes and quantity of tents used in 2010 in 2011 or 2012, or that each tent used will require side panels.

B. Bid Preparation

Bids for each type of tent, that tent's lighting and side panels shall be submitted in the following manner:

- (i) Provide the cost for each component: the tent, lighting for that tent, and two adjacent side panels.
 - (ii) Add together the cost of the tent, lighting for that tent, and two adjacent side panels to result in a total average cost for that size tent.
 - (iii) Multiply the cost you offer for each size tent by the number of tents of the same size used during the 2010 State Fair. That number is set forth on the bid sheet.
 - (iv) Add together these calculations to determine the total amount of your bid.
- All bids must be submitted on the bid sheet attached to this invitation.
 - You must offer a price for each tent size, tent lighting and two adjacent side panels. If you do not, your bid will not be considered.
 - Your offered prices are for the two (2) year Term of the contract.
 - The Department may ask that you provide a tent(s) other than in the sizes noted on the bid sheet. If so, you will be reimbursed by comparing the amount of the interior square feet of the requested tent with the amount of the interior square feet of a similar tent on your bid sheet that has the closest amount of interior square footage, and you will be paid that amount.

References

Submit with your bid sheet documentation that you meet the required minimum qualifications and on a separate page, the name, address, contact person and telephone number for the three (3) most recent customers for which you have provided tents, lighting and side panels, the dates and location where you provided the tents, lighting and side panels and the number and sizes of tents and type and amount of lighting and side panels provided. The Department will contact those customers to verify the information you provide.

Taxes

The Department of Agriculture and Markets is exempt from all federal state and local taxes.

Award

The award will be made to a qualified, responsible bidder submitting the lowest bid.

Reservation of Rights

The Department reserves the right to:

- Reject any or all bids received with respect to this invitation;
- Decline to award a contract from this invitation;
- Require clarification from any bidder to assure a full understanding of the responsiveness to the requirements of the invitation;
- Waive or modify minor irregularities in bids received;
- Request from bidder additional information deemed necessary to more fully evaluate its bid or absent required forms. Bidders will have three (3) business days to respond to the request;
- Amend this invitation after its release, with appropriate written notice posted on the Department's website, and;
- Negotiate with any or all bidders within the bid requirements, in the best interest of New York State.

Notification of Award

The Department will notify the selected bidder(s) verbally, followed by a written confirmation. Unsuccessful bidders will be notified in writing 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 bidder has the right to a debriefing. An unsuccessful bidder must request a debriefing within thirty (30) days from the date of the notification of the Award. To request a debriefing an unsuccessful bidder should contact Emma Graham, Division of Fiscal Management, in writing or via e-mail at .graham@agmkt.state.ny.us.

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

NOTE: Bidders 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 is posted on the website of the New York State Office of General Services at www.ogs.state.ny.us/procurecounc/PDFdoc/appendixa.pdf, and contains standard clauses that are required in all State contracts. Appendix A will be a part of any contract awarded and the successful bidder 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 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 State 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 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 from the date of the 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. 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.state.ny.us/pdf/publications/sales/pub223_507.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 and the Division have established the following goals:

- Minority business enterprises 1%
- Women owned business enterprises 1%

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. Bidders must sign the related certification of non-discrimination at <http://www.ogs.state.ny.us/procurecouncil/PDFdoc/nondiscrimination.pdf>.

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/bidder during the procurement process. (See Attachment 8 - "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/bids through final award and approval of the Procurement Contract by the Department, and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law Section 139-j(3)(a). Designated staff, as of the date hereof, is identified in this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the offeror/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four year period, the offeror/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found in the Department's Guidelines, which are attached, and on the Office of General Services Website at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

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

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 bid was arrived at independently.

Contract Termination

The Department may terminate its contract with you if any of the information you provided 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. Bidders must include, as part of their bid, 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 bidder. 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

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

Cost Liability

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

Freedom of Information

The selected bidder's bid and any contract resulting from this bid are subject to the provisions of New York's Freedom of Information Law, Public Officers Law, Article 6.

BID SHEET
RIGID FRAME TENTS, LIGHTING, SIDE PANELS
2011 NEW YORK STATE FAIR
NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

<u>SIZE</u> <u>LxWxH</u>	<u>TENT</u> <u>COST</u>	+	<u>TENT</u> <u>LIGHTING</u> <u>COST</u>	+	<u>TENT TWO</u> <u>ADJACENT</u> <u>SIDE PANEL</u> <u>COST</u>	=	<u>TOTAL</u> <u>COST</u> <u>PER</u> <u>TENT</u>	x	<u>2010</u> <u>QTY</u>	=	<u>TOTAL COST</u> <u>FOR EACH</u>
10x10x8	_____	+	_____	+	_____	=	_____	x	4	=	_____
10x20x8	_____	+	_____	+	_____	=	_____	x	1	=	_____
15x15x8	_____	+	_____	+	_____	=	_____	x	4	=	_____
15x20x8	_____	+	_____	+	_____	=	_____	x	2	=	_____
15x30x8	_____	+	_____	+	_____	=	_____	x	1	=	_____
15x40x8	_____	+	_____	+	_____	=	_____	x	1	=	_____
15x60x8	_____	+	_____	+	_____	=	_____	x	2	=	_____
15x120x8	_____	+	_____	+	_____	=	_____	x	1	=	_____
20x20x8	_____	+	_____	+	_____	=	_____	x	7	=	_____
20x40x8	_____	+	_____	+	_____	=	_____	x	3	=	_____
30x50x8	_____	+	_____	+	_____	=	_____	x	2	=	_____
25x10x10	_____	+	_____	+	_____	=	_____	x	1	=	_____
20x20x12	_____	+	_____	+	_____	=	_____	x	1	=	_____

Bid Amount \$ _____

Date: _____

Bidder

Bidder's Authorized Representative, Signature
Print Name and Title Below

BID SHEET
CLEAR SPAN RIGID FRAME TENTS
2011 NEW YORK STATE FAIR
NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS

<u>SIZE</u> <u>LxWxH</u>	<u>TENT</u> <u>COST</u>	+	<u>TENT</u> <u>LIGHTING</u> <u>COST</u>	+	<u>TENT TWO</u> <u>ADJACENT</u> <u>SIDE PANEL</u> <u>COST</u>	=	<u>TOTAL</u> <u>COST</u> <u>PER</u> <u>TENT</u>	x	<u>2010</u> <u>QTY</u>	=	<u>TOTAL COST</u> <u>FOR EACH</u>
20x40x10	_____	+	_____	+	_____	=	_____	x	2	=	_____
20x60x10	_____	+	_____	+	_____	=	_____	x	1	=	_____
40x30x10	_____	+	_____	+	_____	=	_____	x	1	=	_____
40x50x10	_____	+	_____	+	_____	=	_____	x	2	=	_____
40x60x10	_____	+	_____	+	_____	=	_____	x	2	=	_____
40x70x10	_____	+	_____	+	_____	=	_____	x	2	=	_____
100x50x10	_____	+	_____	+	_____	=	_____	x	1	=	_____
66x82x10	_____	+	_____	+	_____	=	_____	x	1	=	_____
82x82x10	_____	+	_____	+	_____	=	_____	x	1	=	_____

30x40x12	_____	+	_____	+	_____	=	_____	x	1	=	_____
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Bid Amount \$ _____

Date: _____

Bidder

Bidder's Authorized Representative, Signature
Print Name and Title Below

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

Instructions:

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

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

Offeror Affirmation and Agreement

The Offeror affirms that it understands the procurement lobbying requirements set forth in State Finance Law §§139-j and 139-k, and agrees to comply with the Agriculture and Markets' 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 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 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-bid conference scheduled as part of an RFP, IFB or other solicitation process;
- written complaints by an Offeror that the Department designated contact for a procurement fails to respond in a timely manner;
- negotiations with the Department following tentative award;
- contacts between designated Department staff and Offeror to request the review of a contract award; and
- communications with the Department regarding an appeal, protest or other review of a procurement, participation in an administrative or judicial proceeding regarding a procurement and complaints regarding a procurement

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”, 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).

made to the Attorney General, Inspector General, District Attorney, or State Comptroller.

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

An Offeror who contacts the Department regarding a procurement during the restricted period must be prepared to provide the following information: name, address, telephone number, place of principal employment and occupation of the person or organization making the contact, and whether the person/organization making the contact is the Offeror or is retained, employed or designated by or on behalf of the Offeror to appear before or contact the Department about the procurement. The Department's Report of Contact Form is attached as Form 1.

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

- Affirm that it understands and agrees to comply with these guidelines regarding permissible contacts during a procurement and the prohibition of inappropriate lobbying influence. (The 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 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.

**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 _____, 2010

Notary Public

Signature _____

Name (Typed) _____

Company Position _____

Company Name _____

Date Signed _____

Sworn to before me this

_____ day of _____, 2010

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: