



DIVISION OF FINANCIAL ADMINISTRATION

ADDENDUM #1

Invitation for Bid (IFB) #1690

Date: February 22, 2012

Subject: Questions and Answers

Title: Warehousing and Distribution Services of USDA Donated Food Commodities for Region G counties:
Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester

Bid Due Date: **Wednesday, March 7, 2012 @ 2:00 PM**

Address Bids to: Jenny Fung, Purchasing Agent
NYS Office of General Services
Empire State Plaza, Corning Tower, 40th Floor,
Albany, New York 12242
Email: jenny.fung@ogs.ny.gov

Questions and Answers, Comments and Responses:

- Q1)** 2.4 Page 7, Regarding all documents in Appendix "B". ST-220TD states that it should be mailed to NYS Tax Department. ST-220-CA does not specify where to send but says it is for the recipient agency. Please clarify if any or all of these forms or copies should be included with our bid.
- A1)** Regarding Appendix B, Required Procurement Forms: All bidders need to submit one (1) original and three (3) copies of all documents.
See Section 5.4 – Tax and Finance Clause - Form ST-220-CA must be filed with the bid and submitted to the procuring covered agency (NYS Office of General Services). Send the form included with the bid to the address in Section 2.3, Instructions for Bid Submission.
- Q2)** What schools if any have had a summer distribution in the past?
- A2)** Historically approximately twelve (12) recipient agencies have received a single summer distribution in June or July.
- Q3)** Page 15 "F" please define staging area.
- A3)** The staging area would be any covered area designated by the school, preferably inside.
- Q4)** Is there a minimum number of cases that can be included for agencies that want two deliveries per month? For example, if an agency gets 10 cases per month it is extremely cost prohibitive to go there twice a month with only five cases on each delivery.
- A4)** There is NO minimum.

Q5) Will technical support be provided for the successful bidder to adapt/change their computer system to the new web based system requirements set forth by OGS?

A5) No

All other terms and conditions remain unchanged.

If submitting a proposal, this Addendum #1 for IFB #1690 must contain an original signature, be dated, attached to, and made a part of your proposal.

Company Name

Street Address (include City, State, Zip)

Signature

Title

Bidders Name (please print)

Date

**Invitation for Bids (IFB) solicited by
New York State Office of General Services
For
Warehousing and Distribution (Delivery) Services of
USDA Donated Food Commodities**

Region G

**Counties of:
Dutchess, Orange, Putnam, Rockland, Sullivan,
Ulster and Westchester**



BID DUE DATE: MARCH 07, 2012 AT 2:00 PM

ISSUE DATE: JANUARY 20, 2012

Designated Contact:

Jenny Fung

Voice: 518-474-5981

Fax: 518-473-2844

E-mail: jenny.fung@ogs.ny.gov

Alternate Contact:

Diane Robinson

Same

Same

Diane.robinson@ogs.ny.gov

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Attachment 1	Bid Proposal Form

1. Introduction

1.1 Overview

The Office of General Services, Division of Food Distribution and Warehousing through this solicitation, seeks a vendor to provide Warehousing and Distribution (delivery) of USDA food commodities in **Region G for the counties of: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester**. The warehouse would receive and distribute (deliver) federally donated food commodities from frozen, chilled, and dry environments to approximately 145 recipient agencies. The freezer temperature shall be maintained at '0' degrees Fahrenheit or below, while the cooler temperature shall be maintained at 41 degrees Fahrenheit or below. Quantities and varieties of food can change without notice. If quantities of food rise beyond current estimates, the facility will be expected to handle all foods allocated to it. New York State bears no fiscal responsibility to the facility if quantities drop below current estimates as indicated on the Bid Proposal Form.

Note: Transportation Services are included with this solicitation.

1.2 Designated contact

In compliance with the Procurement Lobbying Law, Jenny Fung, Purchasing Agent, NYS Office of General Services, Division of Financial Administration has been designated as the PRIMARY contact for this procurement solicitation and may be reached by email, voice or fax for all inquiries regarding this solicitation.

Jenny Fung, Purchasing Agent
NYS Office of General Services
Financial Administration
Corning Tower, 40th Floor, ESP
Albany, New York 12242
Voice: 1-518-474-5981
Fax: 1-518-473-2844
Email: jenny.fung@ogs.ny.gov

In the event the designated contact is not available, the alternate designated contact is:

Diane Robinson, Senior Purchasing Agent
NYS Office of General Services
Financial Administration
Corning Tower, 40th Floor, ESP
Albany, New York 12242
Voice: 1-518-474-5981
Fax: 1-518-473-2844
Email: diane.robinson@ogs.ny.gov

For inquires related **specifically** to Minority Women-Owned Business Enterprises (MWBE) provisions of this procurement solicitation, the designated contact is:

Tryphina Ramsey, Compliance Specialist 2
New York State Office of General Services
Office for Minority and Women Owned Business Enterprises
Empire State Plaza, Corning Tower -35th Floor
Albany, NY 12242
Voice: 1-518-473-7083
Fax: 1-518-486-2679
Tryphina.ramsey@ogs.ny.gov

1.3 Key Events

The Table below outlines the schedule for important action dates.

OGS Issues Invitation For Bid (IFB) for Warehousing and Delivery Services in Region G for specified counties	January 20, 2012
Deadline for Submission of Bidder Questions	February 15, 2012
OGS Issues Responses to Written Questions (estimated)	February 22, 2012
Bid Due Date/ Bid Opening Date	March 07, 2012 @ 2:00 P.M.
Contract Start Date	July 01, 2012

1.4 Minimum Bidder Qualifications

- The intent of this solicitation is to award this contract to a vendor who is able to provide both Warehousing Services and Transportation (delivery) Services in Region G for the counties listed above for USDA donated food commodities.
- The vendor must have adequate resources for both storage of donated food commodities and the delivery of those commodities.
- Facility must be licensed for food storage by New York State Department of Agriculture and Markets.
- Facility must have proper storage capacities for frozen, chilled and dry storage environments, all located at one (1) site.
- The facility must be able to handle all of the items allocated to them.
- **Facility must have the following minimum storage areas available only for the commodities contained in this contract:**
 - **A)** 12,000 square feet of frozen storage
 - **B)** 6,000 square feet of chilled storage; and
 - **C)** 18,000 square feet of dry storage.

The minimum square footage requirement (above) is based in part on the **estimated** annual per case volume of each of the storage environments listed below:

- Dry - 58,000 cases
- Frozen - 56,000 cases
- Cooler - 10,000 cases
- The bidder's facility must be located in proximity to the area (counties) to be serviced OR demonstrate experience of and ability to provide delivery services to facilities in the area(s) indicated.

2. Bid Submission

2.1 IFB Questions and Clarifications

Questions and requests for clarification regarding this IFB 1690 shall only be directed to:

Jenny Fung, Purchasing Agent
OGS Division of Financial Administration
40th Floor, Corning Tower, ESP
Albany, NY 12242
Phone: 1-518-474-5981
Fax: 1-518-473-2844
e-mail: jenny.fung@ogs.ny.gov

Questions and/or requests for clarification are only accepted via e-mail. Official answers to questions will be provided via addendum. Deadline for submission of questions will be as stated in Section 1.3 - Key Events.

2.2 Bid Format and Content

In order for the State to evaluate bids fairly and completely, bidders should follow the format set forth herein and must provide all of the information requested. **All items identified in the following list must be addressed as concisely as possible in order for a bid to be considered complete. Failure to conform to the stated requirements may necessitate rejection of the bid.**

1. **Cover Letter.** The cover letter **must confirm that the bidder understands all the terms and conditions contained in this IFB and will comply with all the provisions of this IFB.** Further, that should the contract be awarded to your company, you would be prepared to begin services on 7/1/2012. The cover letter must also include the full contact information of the person(s) NYS OGS shall contact regarding the bid. A bidder representative authorized to make contractual obligations must sign the cover letter.
2. **Experience & Operational Plan.** Bidders must describe their capabilities to provide the services requested in this IFB by providing the following:
 - A description of Bidder's experience with Warehousing and Distribution (delivery) Services.
 - A current copy of New York State Agriculture and Markets license must accompany the bid.
 - Staffing plan, including the use of any subcontractors.
 - Sufficient information to confirm their ability to meet the minimum requirements set forth in Section 1.4.
3. **Pricing.** Bidder shall list all pricing on the attached bid form (Attachment 1) for this solicitation.
4. All other required completed forms from Appendices B & D.

Note: OGS reserves the right to request any additional information deemed necessary to ensure that the bidder is able to fulfill the requirements of the contract.

2.3 Instructions for Bid Submission

Only those Bidders who furnish all required information and meet the mandatory requirements will be considered. Submit all required bid documents including bid addenda if any, to the OGS Division of Financial Administration at the following address:

Division of Financial Administration
NYS Office of General Services
Corning Tower, 40th Floor
Empire State Plaza
Albany, NY 12242
Attn: Jenny Fung
IFB 1690

E-MAIL OR FAX BID SUBMISSIONS ARE NOT ACCEPTABLE AND WILL NOT BE CONSIDERED.

The State of New York will not be held liable for any cost incurred by the Bidder for work performed in the preparation and production of a bid or for any work performed prior to the formal execution of a contract.

Bids must be received in the above office on or before 2:00 PM on the date indicated in (Section 1.3) Key Events. **Bidders assume all risks for timely, properly submitted deliveries.**

The received time of bids will be determined by the clock at the above noted location.

NO CONSIDERATION WILL BE GIVEN TO BIDS RECEIVED AFTER THE STATED DATE AND TIME.

Bidders mailing their bid must allow sufficient mail delivery time to ensure receipt of their bid at the specified location no later than the specified date and time. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the bidding entity shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather or security procedures for parking and building admittance shall not excuse late Bid submissions. Bidders are cautioned that receipt of bids in the OGS Mailroom is NOT sufficient, and that at least one overnight carrier has been known to deliver its packages to the OGS Mailroom. OGS cannot be responsible for the actions of your chosen carrier.

Bids must remain open and valid for 120 days from the due date, unless the time for awarding the contract is extended by mutual consent of NYS OGS and the Bidder. A bid shall continue to remain an effective offer, firm and irrevocable, subsequent to such 120 day period until either tentative award of the contract(s) by issuing Office is made or withdrawal of the bid in writing by Bidder. Tentative award of the contract(s) shall consist of written notice to that effect by the issuing Office to the successful Bidder. This IFB remains the property of the State at all times, and all responses to this IFB, once delivered, become the property of the State.

Important Building Access Procedures for Delivered Bids:

Building access procedures are in effect at the Corning Tower. Photo identification is required. All visitors must register for building access, for delivering bids. **Vendors are encouraged to pre-register by contacting the OGS Finance Office at 518-474-5981 at least 24 hours prior to the bid opening.** Pre-registered visitors are to report to the visitor desk located at the Concourse level of the Corning Tower. Upon presentation of appropriate photo identification, the visitor will be allowed access to the building.

Upon arrival at the visitor desk, visitors that have not pre-registered will be directed to a designated phone to call the OGS Finance Office. The Finance Office will then enter the visitor's information into the building access system. Access will not be allowed until the security system has been updated. Visitors are encouraged to pre-register to ensure timely access to the building. Vendors who intend to deliver bids or conduct business with OGS should allow extra time to comply with the security procedures. These security procedures may change or be modified at any time.

Visitor parking information can be viewed at the following OGS web site:

<http://www.ogs.ny.gov/BU/BA/Parking/Visitor/>

2.4 Packaging of IFB Response

Please submit **(4) originals** of the **Bid Proposal Form (Attachment 1)**, the **Signature Page(s)** and the **Acknowledgement Page(s) found in Appendix D.**

Please complete and submit (1) original and (3) copies of all other documents found in **Appendix B.**

The bid documents must be submitted by mail, hand delivery, overnight carrier or certified mail in a package showing the following information on the outside:

Bidder's complete name and address**Solicitation Number: 1690 (this document)****Bid Due Date and Time: Same as in Section 1.3 - Key Events****Bid for: Warehousing and Distribution / Delivery Services of USDA Donated Food Commodities for Region G for the counties of: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester.**

Failure to complete all information on the bid envelope and / or packages may necessitate the premature opening of the bid and may compromise confidentiality.

2.5 Examination of Existing Building and Contract Documents

a. Each Contractor is under an affirmative duty to inform itself by personal examination of the specifications and location of the proposed work and by such other means as it may select, of the character, quality, and extent of the work to be performed and the conditions under which the contract is to be executed.

b. Each Contractor shall examine specifications and all other data or instruction pertaining to the work. No pleas of ignorance of conditions that may be encountered or of any other matter concerning the work to be performed in the execution of the work will be accepted by the Commissioner of the Office of General Services or a designated representative as an excuse for any failure or omission on the part of the Contractor to fulfill every detail of all the requirements of the documents governing the work. Contractor, if awarded contract, will not be allowed any extra compensation by reason of any matter or thing concerning which such contractor might have fully informed itself prior to bidding.

c. Any Contractor in doubt as to the true meaning of any part of this Invitation for Bid or the proposed contract documents shall submit to **Jenny Fung, Purchasing Agent, NYS Office of General Services, Financial Administration, 40th Floor, Corning Tower, Empire State Plaza, Albany, New York 12242**, a written request for an interpretation thereof. If a major change is involved on which all bidders must be informed, such request for interpretation shall be delivered, in writing, via e-mail by the closing date for inquiries. Any interpretation of the proposed documents will be made only by an addendum duly issued. A copy of such addendum will be mailed or delivered to each potential Bidder.

d. Any addendum issued during the bidding process shall be included in bids and in closing a contract will become a part thereof.

e. Any verbal information obtained from or statements made by representatives of the Commissioner of General Services at the time of examination of the documents or site shall not be construed as in any way amending Contract Documents. Only such corrections or addenda as are issued in writing to all bidders shall become a part of the contract. The Commissioner of General Services will not be responsible for verbal instructions.

3. Administrative Information

3.1 Issuing Office

This IFB is being released by the New York State Office of General Services (NYS OGS) Division of Financial Administration on behalf of the OGS Division of Food Distribution and Warehousing.

3.2 Method of Award

Award shall be made to the vendor who has the lowest responsive and responsible bid based on the grand total on Attachment 1, Bid Form.

The Bid Form consists of two components: (A) Cost per case of food received, stored, and delivered; and (B) Storage cost per case for items exceeding 60 days (see Attachment 1 - Bid Proposal Form).

To calculate the Item A cost per year, the estimated number of cases per month (21,800) is multiplied by the price per case for 10 months. To calculate the Item B cost per year, the estimated number of cases (4,650) is multiplied by the price per case for 2 months of storage.

Upon determination of the lowest responsive and responsible bidder, the Service Agreement found in Appendix D hereto, which appendix is hereby, incorporated by reference and made a part hereof as fully as if set forth at length herein, will be completed with the successful bidder's information and appended to this IFB and the successful bidder's bid to form the contract between the parties that will be processed for all necessary State approvals.

The Grand Total bid amount of the successful bidder shall be used to establish the contract value. This amount shall not be exceeded.

3.3 Price

The **Prices Bid** shall be inclusive of all costs including travel, licenses, insurance, administrative, profit and other ancillary costs. Bidders must submit pricing using the Bid Proposal Form (Attachment 1) contained in this document.

Bid Form **Item A** – The case quantity breakouts provided (1 – 49 cases, 50 – 99 cases, etc.) represent the number of cases **delivered per stop / location**. Such deliveries generally occur twice per month. The price bid per case shall be inclusive of all product handling, storage (up to the first 60 days), and delivery. These charges shall be included on the invoice for the month in which delivery to recipient agency was made.

Bid Form **Item B** – the **price bid per case shall be a per month charge for any product stored in excess of 60 days**. This charge may recur each month (or portion thereof) for which a product is stored after the initial 60 day period.

The contractor agrees that from the effective date of the contract until contract termination, the rates charged by the contractor and paid for by OGS will be equal to or lower than any rates provided by the contractor to other tenants for like services.

3.4 Term of Contract

This contract will commence 7/1/2012 and will be in effect for five (5) years through 6/30/2017.

The State of New York retains the right to cancel this contract for convenience, provided that the Contractor is given at least thirty (30) days written notice of OGS' intent to cancel. Any cancellation by OGS under this section shall in no event constitute or be deemed a breach of any contract resulting from this IFB and no liability shall be incurred by or arise against OGS, its agents and employees therefore for lost profits or any other damages resulting there from. This provision should not be understood as waiving the State's right to terminate the contract for cause or stop work immediately for unsatisfactory work, but is supplementary to that provision. See Section 5.14 – Termination.

3.5 Price Adjustment (Escalation / De-escalation)

The Contractor is to submit a bid that will be fixed for one (1) year only. On each anniversary date of the contract, the Contractor will be granted an increase or decrease in their bid, dependent upon fluctuations in the Consumer Price Index for All Urban Consumers (CPI-U), New York and Northern New Jersey, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. Visit their website at www.bls.gov/ro2/home.htm.

The 'base' month for determining adjustments will be the third month prior to the start date of the contract. The base month is fixed and will not be adjusted year to year. The adjustments will be based on the difference in the base month CPI for each applicable year and will become effective in the anniversary month. For example, if the contract is awarded in September 2006, the 'base' month will be June. If the contract allows for an adjustment after the first year, it would be based on the difference between the June 2006 CPI and the June 2007 CPI and become effective in September 2007. The consumer price index is published around the middle of each month for the prior month (i.e. the January figure is not published until mid February). The Contractor has the sole responsibility to request, in letter form, an adjusted rate and shall provide a copy of the index and other supporting documentation necessary to support the increase or decrease with the request. This request and documentation must be received at the below address within three months of the base month. To ensure timely delivery, certified mail is recommended. As long as the request is submitted and received within the required time frame, the adjustment will be processed using the base month Consumer Price Index. Once approved, the contractor will be notified in writing. **Request and documentation must be sent to the OGS Purchasing Unit, Corning Tower, 40th Floor, Empire State Plaza, and Albany, New York 12242.**

Should a contractor fail to submit the request and supporting documentation to the proper location within three months of the applicable base month date, contractor shall be deemed to have waived its right to any increase in price, but the State shall not be barred from making the appropriate adjustment in the case of a decrease determined in accordance with the above methodology.

3.6 Method of Payment

For the purposes of this contract an **invoice** or a Standard Voucher will be used. This **invoice** or voucher will contain the Contract ID number (i.e.: C000XXX) and, either in its body or as an attachment, that will **itemize work completed** during that month.

Item A charges (see section 3.3) shall be included on the invoice for the month in which delivery to the recipient agency was made. Item B charges may recur each month (or portion thereof) for which a product is stored after the initial 60 day period.

Invoices for payment shall be submitted at the end of each month on a **company invoice** or New York State Standard Voucher for services satisfactorily completed during that month (also see Section 3.3 Price).

Invoices must be accompanied by a listing of all deliveries made by location, including the date of each delivery and the number of cases of USDA foods delivered. In addition, the contractor must also submit a storage report with the invoice. The storage report must include a breakdown by recipient agency for any product that has exceeded the 60-calendar day threshold, and has thus incurred a storage charge.

Invoices shall be submitted to the OGS Claims Unit. Invoices will be processed in accordance with established procedures of the Office of General Services and the Office of the State Comptroller (OSC) and payments will be subject to the prompt payment provisions of Article XI-A of the New York State Finance Law.

Invoices without the above stated information will be returned to Contractor to be completed as required above. Payment will not be issued and will not be due and owing until a corrected invoice is received and approved by OGS.

All invoices must be submitted for payment to:

THE CLAIMS UNIT
DIVISION OF FINANCIAL ADMINISTRATION -or- claimsunit@ogs.ny.gov
OFFICE OF GENERAL SERVICES
EMPIRE STATE PLAZA STATION, P. O. BOX 2117
ALBANY, NEW YORK 12220-0117

Also, a COPY of the invoice and reports must be forwarded to the following:

DIRECTOR
DIVISION of FOOD DISTRIBUTION and WAREHOUSING –or- ogsdonatedfoods@ogs.ny.gov
EMPIRE STATE PLAZA, CORNING TOWER, 29TH FLOOR
ALBANY, NY 12242

3.7 Electronic Payment

Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the contract, the agency, and the State Comptroller. Payment for invoices submitted by the contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor 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 e-mail at epunit@osc.state.ny.us, or by phone at 518-474-4032. Contractor 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 Commissioner has expressly authorized payment by paper check as set forth above.

Please note that in conjunction with New York State's implementation of a new Statewide Financial System, the Office of the State Comptroller requires all vendors doing business with New York State agencies to complete a substitute W-9 form. Vendors registering for electronic payment can complete the W-9 form when they register. Vendors already registered for electronic payment are requested to go to the above website and complete the Substitute W-9 form and submit following the instructions provided.

3.8 Past Practice

The failure to exercise any right hereunder in the past shall not operate as a waiver of such right. No breach of this Agreement shall be deemed waived unless such waiver shall be in writing and signed by the party claimed to have waived. No waiver of any breach of the Agreement at any time in the past shall constitute a waiver of subsequent breach.

3.9 Bid Exceptions

The Issuing Office will consider all requests to waive any bid requirement. However, bidders should be aware that failure to obtain a waiver of any bid requirement in advance of bid submission could result in rejection of Bidder's bid and disqualification from the bidding process. Bidders wishing to obtain an exemption or waiver for any part of this solicitation must contact the Issuing Office in writing by the '**Questions Due Date**' as identified in Key Events Section 1.3. The request must cite the specific section and requirement in the question, and clearly identify any proposed alternative. Requests will be considered and responded to in writing, either via addendum (if the response results in a change to the IFB), or directly to the requesting vendor.

3.10 Dispute Resolution

It is the policy of the Office of General Services' Financial Administration to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to bid solicitations or contract awards. OGS Financial Administration encourages vendors to seek resolution of disputes through consultation with OGS Financial Administration staff. (Note: prior to the contract award, all disputes must be sent to the designated contact.) All such matters will be accorded impartial and timely consideration.

Interested parties may also file formal written disputes. A copy of the OGS Financial Administration Dispute Resolution Procedures for Vendors may be obtained by contacting the designated contact person identified on the front of the bid document.

3.11 Prime Contractor Responsibilities

The State will contract only with the successful Bidder who is the Prime Contractor. The Issuing Office considers the Prime Contractor, the sole Contractor with regard to all provisions of the IFB, and the contract resulting from the IFB.

No subcontract entered into by the Contractor shall relieve the Contractor of any liabilities or obligations in this IFB or the resultant contract. The Contractor accepts full responsibility for the actions of any employee or subcontractor who carry out any of the provisions of any contract resulting from this IFB.

3.12 Inspection of Books

It is expressly understood and agreed that the Office of General Services and the New York State Comptroller shall have the right to inspect and audit the Contractor's records covered under this Agreement, in accordance with his statutory responsibility to examine the books and accounts of every Agency. The New York State Comptroller requires, and the Contractor agrees to, the retention of all material that is pertinent to an audit of the operations under any contract resulting from this IFB for a full six-year period.

3.13 Glossary of Terms

"Issuing Office" shall mean the Office of General Services Division of Financial Administration.

"Contractor"/"Vendor" shall mean a successful company awarded a contract pursuant to this IFB.

"Invitation for Bid" or "IFB" shall mean this document.

The "State" shall mean The People of the State of New York, which shall also mean the New York State, Office of General Services.

"Commissioner" shall mean the Commissioner of General Services or duly authorized representative.

"Offeror" or "Bidder" shall mean any person, partnership, firm, corporation or other authorized entity submitting a bid to the State pursuant to this IFB.

3.14 Rules of Construction

Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms, as used in this IF refer to this IFB.

4. Scope of Work

4.1 Contractor Service Requirements

A) The contractor agrees to adhere to all State and Federal regulations in connection with the handling, storage, and delivery of all commodities.

B) The contractor agrees to accept, unload and move into their warehouse and place in proper storage, shipments of USDA commodities allocated by OGS for distribution to eligible recipient agencies. Incoming USDA loads must be accepted for delivery at minimum, between the hours of 7:00 A.M and 2:00 P.M.

C) The contractor agrees to immediately tally commodities being placed for unloading and storage and prepare any reports or tallies that are required by OGS and forward such reports and tallies promptly to OGS. Quantities and varieties of food can change without notice. If quantities of food rise beyond current estimates, the facility will be expected to handle all foods allocated to it. The State of New York bears no responsibility to the facility if quantities drop below current estimates as indicated on the Bid Form. The contractor further agrees to physically segregate all USDA foods. These lots must be rotated on a first-in first-out basis except in cases where the packaging date of the incoming shipment precedes that of earlier shipments. In such instances, the packaging date will determine order of distribution. If a truck arrives at the facility and the arriving load was pre-scheduled with the contractor by OGS, and the unloading of the trailer is delayed for an unreasonable amount of time causing the trucker to incur any costs, payment of said costs will be the sole responsibility of the contractor.

D) The contractor agrees to place commodities into dry, chilled or frozen storage environments according to the nature of the product, accepted practice or any instructions forwarded to the contractor by OGS with each advice of shipment. Those commodities requiring refrigeration or frozen storage will be kept under protection of mechanical refrigeration.

E) The contractor further agrees to deliver the commodities for OGS to designated recipient agencies. The agencies must sign for all commodities received. All cases will be allocated to a recipient agency, and thus the entire contents of each incoming truckload will be accounted for. The contractor will be responsible for downloading the agency allocation breakdown for each incoming USDA load, utilizing a USDA web based system,

See **Appendix C** for a list of current school districts and recipient agencies in Region G. Note that the list is subject to change during the term of the contract

F) The contractor agrees to have an active high-speed Internet connection in order to utilize a USDA web based system for reviewing and receipting of government commodity loads.

G) The contractor must provide all recipient agencies with a weekly electronic report of USDA foods that are allocated to each agency and are therefore available to order. In addition, the contractor must also provide OGS with a weekly electronic master list, which is to include the information for every agency.

H) The bidder's facility must be located in proximity to the area to be serviced OR demonstrate experience of and ability to provide delivery services to facilities in the area(s) indicated.

4.2 Care of Commodities

A) The contractor agrees to exercise the highest degree of diligence to prevent loss or damage of such commodities through fire, theft, infestation, deterioration or any other cause during the time when said commodities are stored in its warehouse or subject to the control of the contractor. The contractor agrees to reimburse OGS for any loss or shortage in said commodities which shall occur through the contractor's acts or those of its employees. Such reimbursement shall be deducted from the next monthly bill.

B) The contractor agrees to obtain and provide copies to OGS of all necessary licenses and permits. Also, take good care of warehouse premises, fixtures and appurtenances and to comply with all laws, rules, orders, ordinances and regulations at any time issued or in force applicable to the premises of the borough, city, county or other municipality, bureau and official thereof and of any Board of Fire Underwriters having jurisdiction.

- C)** The contractor agrees to install and maintain a heat or smoke activated fire alarm system with central station monitoring or a sprinkler system.
- D)** The contractor agrees to install and maintain accurate continuous recording temperature devices with attached charts. These charts are to be kept on file during the term of this agreement and for six (6) months following the end of the agreement. They shall be available to OGS for inspection at any time.
- E)** The contractor agrees to keep the premises clean and protected from infestation and at all times maintain a passing score from New York State Department of Agriculture and Markets. Approved rodent bait traps must be installed and maintained and a chart of their location noting maintenance dates kept for visual inspection by OGS. It is recommended that Integrated Pest Management (IPM) methods be utilized. Food products must not be stacked closer than 12" from any wall or partition or 6" from the floor.
- F)** The contractor agrees not to leave any damaged product exposed in rooms where good product is stored. Floors must be swept and kept free of dust and debris. Cartons and bags must be free from dust or dirt.
- G)** The Contractor MUST have a current and active 'food safety' plan in place. Facility must have proper sanitation, construction, inventory control procedures and security as specified in the contract. These qualifications could be verified by an on-site inspection subsequent to the bid opening.

4.3 Damages

- A)** The contractor shall examine each shipment for possible shortage or damage and shall immediately notify OGS of any shortage or damage on the form(s) provided for that purpose. In the case of shipments containing damaged or out-of-condition commodities not exceeding fifty percent of total load capacity, the contractor shall immediately notify OGS, by telephone, of gross damage, shall proceed to take necessary steps to salvage such damaged commodities and shall, not more than five (5) days thereafter, notify OGS of net damages. In the case of shipments containing damaged or out-of-condition commodities exceeding fifty percent of total load capacity, the contractor shall immediately notify OGS, by telephone, of the condition of such shipment but shall not unload or otherwise handle the same until instructions are received from OGS. Commodities found unfit for human consumption shall be disposed of in accordance with specific instructions to be given in each case by OGS. Contractor shall be responsible for the disposal of any defective product(s) by order of OGS Division of Food Distribution and Warehousing in accordance with accepted procedures.
- B)** It is understood and agreed to that any cost incurred by the warehouse in connection with the disposition or salvage of damaged commodities shall be reimbursed by the delivering carrier or such other party as may be found to be responsible for the damage.

4.4 Deliveries

- A)** Contractors must have and utilize proper delivery vehicles as follows:
1. Vans and/or trucks for delivery of dry items, and/or
 2. Dual compartment trucks for combined deliveries of dry items and refrigerated items, and/or
 3. Single compartment refrigerated trucks ("0" degrees Fahrenheit) for separate or integrated deliveries of dry items and refrigerated items.
 4. The number of vehicles required will depend on the size of the trucks used.
- B)** Deliveries to schools shall be made twice each month, between the months of September and June. All deliveries shall be made Monday through Friday between the hours of 7:00 A.M and 2:00 P.M. unless special arrangements are made between the recipient and the contractor.

Recipient agencies shall be required to provide a list of observed holidays and other closings to the contractor. Contractors should deliver on the same day of each scheduled week unless there is an emergency at which time the contractor shall notify each recipient agency, which is scheduled for delivery on that day of the emergency, and reschedule the delivery. Contractors will not be allowed to charge for unscheduled deliveries which the recipient agency is unable to accept. An alternate delivery schedule can be used, if consent exists between both the contractor and the recipient agency.

In addition to the above, there is an annual one-time delivery to "Summer Feeding" sites during the month of

July. OGS Food Distribution & Warehousing will provide the contractor with a list of sites and addresses.

Please note that if multiple drops are made within the same recipient agency, this will be considered to be one drop for the purposes of billing.

C) OGS agrees to notify the contractor of prospective deliveries as far in advance of shipments as possible. Should the contractor, for any reason, be unable to store any or all of a commodity scheduled for delivery, Contractor shall notify OGS as soon as a potential problem is known to exist, regardless of the date of such notification.

D) It is agreed by the contractor that upon receiving a load of USDA food, the contractor will promptly store such commodities in its warehouse and will immediately electronically receipt for each shipment utilizing a USDA web based system. Any discrepancies in amounts of commodities received and amounts shown on notices of shipment must be noted in the USDA web based system.

E) The contractor will be responsible for any charges for detention / demurrage or other charges which may accrue after a truck has been placed for unloading by order of OGS. If the contractor omits an item(s) in error, the item(s) can be included in the school's next scheduled delivery, but only if the school agrees. If the school does not agree to wait for their next scheduled delivery, the contractor has (3) three working days to deliver the omitted item(s), at no additional charge.

F) Drivers and/or helpers shall deliver merchandise to designated staging areas at each delivery site. Drivers and/or helpers shall not be required to place merchandise in holding rooms, cabinets, coolers, or freezers.

Drivers and/or helpers shall request the authorized school receiver, or the designated representative to verify the accuracy of items, quantities of each item, total quantities, and condition of merchandise. Each delivery ticket/slip must be receipted (signed) by a designated school receiver and one copy left at the school. The designated school receiver shall note shortages, damages, etc. on each ticket/slip. The recipient agency must provide signed withdrawal orders for any commodities received.

G) Contractors may deliver donated foods in straight loads containing only donated foods or in mixed loads with other commercially purchased items, as long as the other terms of this contract are satisfied.

H) USDA foods may not be delivered with chemicals or other products which may be harmful to the quality or safety of the Food or Commodities.

4.5 Commodity Holds and Recalls

Periodically, the United States Department of Agriculture (USDA) may announce that a particular commodity must be placed on "Hold". In more serious situations, the USDA may actually "Recall" the product. If a commodity "Recall" occurs, OGS retains the authority to contact the warehouse and direct that a particular commodity be disposed of. It is expressly understood that the disposal process may in many cases cause a warehouse to incur charges. In these cases, OGS will work on behalf of the warehouse to seek full reimbursement of said charges from the USDA. Although OGS would react timely on behalf of the warehouse, it could be several months before the warehouse will receive their reimbursement. In addition, OGS can only seek a reimbursement, when the warehouse can provide documented proof that disposal charges were incurred.

4.6 Emergency Services

Emergency service shall be provided, as needed on a twenty-four (24) hour, seven (7) days a week basis. To ensure the State that the Contractor will respond promptly, the Contractor agrees to provide an emergency telephone service on a twenty-four (24) hour, seven (7) days a week basis. From the time of the call by OGS, the Contractor has a maximum of one (1) hour to respond to any call.

4.7 Staffing Expectations

The Office of General Services expects that all services will be conducted diligently and effectively under the oversight of OGS staff. Further, it is expected that:

- Any contractor staff shall conduct themselves in a professional manner with OGS staff and with the General Public.
- All contractor staff shall comply with all rules and requirements of this solicitation, including the use of drugs and alcohol (see Section 5.7).

4.8 Administrative and Reporting Requirements

The Contractor will be responsible for the completion of a variety of administrative and reporting requirements, and the cost of same shall be included in your bid. The contractor agrees to forward to OGS Food Distribution, a monthly inventory taken from the warehouse records. Such reports shall be submitted within five (5) days after the close of business for that month.

A physical inventory shall be taken at such times as may be determined by OGS, but at least annually. Contractor shall provide reasonable access to the commodities when physical inventories are conducted at no extra charge to OGS.

It is expected that the contractor shall maintain accurate records and accounts of the services rendered.

During the term of any contract resulting from this IFB, the Contractor shall maintain a designated officer or employee as its representative for contact with the State and for all communication and transactions relating to any contract resulting from this IFB.

The Commissioner's designated representative for all purposes of this contract shall be the Director of the Division of Food Distribution and Warehousing for the Office of General Services.

5. Contract Clauses and Requirements

5.1 Appendix A / Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated December 2011, attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein.

The agreement resulting from a successful award will include the following documents. Conflicts between these documents will be resolved in the following descending order of precedence:

1. Appendix A
2. Contract Service Agreement (Appendix D)
3. OGS Invitation for Bid **1690** (this document) with any addendum(a)
4. Selected Contractor's Bid

5.2 Procurement Lobbying Requirement

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the 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 §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period; the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website:

<http://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html>

5.3 Contractor Insurance Requirements

Prior to the commencement of the work to be performed by the Contractor hereunder, the Contractor shall file with The People of the State of New York, Office of General Services (hereinafter referred to as "OGS"), Certificates of Insurance (hereinafter referred to as "Certificates"), evidencing compliance with all requirements contained in this Section. Such Certificates shall be of a form and substance acceptable to OGS.

Certificate acceptance and/or approval by OGS does not and shall not be construed to relieve Contractor of any obligations, responsibilities or liabilities under the Contract.

All insurance required by the Contract shall be obtained at the sole cost and expense of the Contractor; shall be maintained with insurance carriers licensed to do business in New York State and acceptable to OGS; shall be primary and non-contributing to any insurance or self insurance maintained by OGS; shall be endorsed to provide written notice be given to OGS, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice, evidenced by return receipt of United States Certified Mail; shall be sent to Office of General Services, Purchasing Unit, Corning Tower, 40th Floor, Empire State Plaza, Albany, New York 12242 and shall name **The People of the State of New York, its officers, agents, and employees as additional insureds there under** (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number **CG 20 10 11 85**). The additional insured requirement does not apply to Workers Compensation, Disability or Professional Liability coverage.

The Contractor shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject. Deductibles and self-insured retentions must be approved by OGS. Such approval shall not be unreasonably withheld.

The Contractor shall require that any subcontractors hired, carry insurance with the same limits and provisions provided herein.

Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to OGS and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

The Contractor shall cause all insurance to be in full force and effect as of the commencement date of this Contract and to remain in full force and effect throughout the term of this Contract and as further required by this Contract. The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect. Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply to OGS updated replacement Certificates of Insurance, and amendatory endorsements.

The Contractor, throughout the term of this Contract, or as otherwise required by this Contract, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Contract, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

- a) Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence. Such liability shall be written on the ISO occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of another assumed in a contract) and explosion, collapse & underground coverage.
 1. If such insurance contains an aggregate limit, it shall apply separately on a per job or per project basis.
- b) Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
- c) If the work involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any petroleum, petroleum product, hazardous material or substance, the Contractor shall maintain in full force and effect throughout the term hereof, pollution legal liability insurance with limits of not less than \$2,000,000, providing coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against OGS arising from Contractors work.
 1. If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.
 2. If the Contract includes disposal of materials from the job site, the Contractor must furnish to OGS, evidence of pollution legal liability insurance in the amount of \$2,000,000 maintained by the disposal site operator for losses arising from the disposal site accepting waste under this Contract.
 - i) If autos are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48) as well as proof of MCS 90.
- d) If providing professional services, the Contractor shall maintain, or if subcontracting professional services, shall certify that Subcontractor maintain, errors and omissions liability insurance with a limit of not less than \$5,000,000 per loss.
 1. Such insurance shall apply to professional errors, acts, or omissions arising out of the scope of services covered by this Contract and, if the project involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any hazardous material or substance, it may not exclude bodily injury, property damage, pollution or asbestos related claims, testing, monitoring, measuring, or laboratory analyses.
 2. If coverage is written on a claims-made policy, the Contractor warrants that any applicable retroactive date precedes the effective date of this Contract; and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than two years from the time work under this Contract is completed.
- e) Waiver of Subrogation. Contractor shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OGS, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Contractor waives or has waived before the casualty, the right of recovery against OGS or (ii) any other form of permission for the release of OGS.
- f) WORKERS' COMPENSATION / DISABILITY INSURANCE:

Workers' Compensation, Employer's Liability, and Disability Benefits meeting all New York State statutory requirements are required. If coverage is obtained from an insurance company through an insurance policy, the policy shall provide coverage for all states of operation that apply to the performance of the contract. In addition, if employees will be working on, near or over navigable waters, coverage provided under the US Longshore and Harbor Workers' Compensation Act must be included. Also, if the contract is for temporary services, or involves renting equipment with operators, the Alternate Employer Endorsement, WC 00 03 01A, must be included on the policy naming the People of the State of New York as the alternate employer.

PROOF of COMPLIANCE WITH WORKERS' COMPENSATION COVERAGE REQUIREMENTS:

ACORD forms are **NOT** acceptable proof of workers' compensation coverage.

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to workers' compensation coverage, contractors shall:

- A) Be legally exempt from obtaining workers' compensation insurance coverage;
- or
- B) Obtain such coverage from insurance carriers;
- or
- C) Be a Board-approved self-insured employer or participate in an authorized self-insurance plan.

Contractors seeking to enter into contracts with the State of New York **shall provide one of the following forms to the Office of General Services** at the time of bid submission or shortly after the opening of bids:

- A) **Form CE-200**, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us);
- or
- B) Certificate of Workers' Compensation Insurance:
 - 1) **Form C-105.2 (9/07)** if coverage is provided by the contractor's insurance carrier, **contractor must request its carrier** to send this form to the New York State Office of General Services;
 - or
 - 2) **Form U-26.3** if coverage is provided by the State Insurance Fund, contractor must request that the State Insurance Fund send this form to the New York State Office of General Services;
- or
- C) Certificate of Workers' Compensation Self-Insurance - **Form SI-12**, available from the New York State Workers' Compensation Board's Self-Insurance Office;
- or
- D) Certificate of Participation in Workers' Compensation Group Self-Insurance **Form GSI-105.2**, available from the contractor's Group Self-Insurance Administrator.

PROOF of COMPLIANCE WITH DISABILITY BENEFITS COVERAGE REQUIREMENTS:

In order to provide proof of compliance with the requirements of the Workers' Compensation Law pertaining to disability benefits, contractors shall:

- A) Be legally exempt from obtaining disability benefits coverage;
- or
- B) Obtain such coverage from insurance carriers;
- or
- C) Be a Board-approved self-insured employer.

Contractors seeking to enter into contracts with the State of New York **shall provide one of the following forms to the Office of General Services** at the time of bid submission or shortly after the opening of bids:

- A) **Form CE-200**, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us);
- or
- B) **Form DB-120.1**, Certificate of Disability Benefits Insurance. Contractor must request its business insurance carrier to send this form to the New York State Office of General Services;

OR

- C) **Form DB-155**, Certificate of Disability Benefits Self-Insurance. The Contractor must call the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

All forms must name the Office of General Services – Financial Administration, 40th Floor, Mayor Erastus Corning 2nd Tower, Empire State Plaza, Albany NY 12242, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

Contractor acknowledges that failure to obtain and/or keep in effect any or all required insurance on behalf of OGS constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to OGS. Contractor's failure to obtain and/or keep in effect any or all required insurance shall also provide the basis for OGS' immediate termination of any contract resulting from this RFP, subject only to a five (5) business day cure period. Any termination by OGS under this section shall in no event constitute or be deemed a breach of any contract resulting from this solicitation and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

5.4 Tax and Finance Clause

TAX LAW § 5-A:

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded state contracts for commodities, services and technology valued at more than \$100,000 to certify to the Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to contracts where the total amount of such contractors' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, and its subcontractors are required to register to collect state sales and compensating use tax and contractors must certify to DTF that each affiliate and subcontractor exceeding such sales threshold is registered with DTF to collect New York State and local sales and compensating use taxes. The law prohibits the State Comptroller, or other approving agency, from approving a contract awarded to a contractor meeting the registration requirements but who is not so registered in accordance with the law.

Contractor certification forms and instructions for completing the forms are attached to this IFB. Form ST-220-TD must be filed with and returned directly to DTF. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the contractor, its affiliate(s), or its subcontractor(s) a new Form ST-220-TD must be filed with DTF.

Form ST-220-CA must be filed with the bid and submitted to the procuring covered agency certifying that the contractor filed the ST-220-TD with DTF. Proposed contractors should complete and return the certification forms within two business days of request (if the forms are not completed and returned with bid submission). Failure to make either of these filings 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 DTF at **1-800-698--2909** for any and all questions relating to Section 5-(a) of the Tax Law and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.nystax.gov>

5.5 MWBE & EEO Requirements

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES

POLICY STATEMENT

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting verses the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this contract; or (ii) employment outside New York State.

Bidder further agrees to submit with the bid a staffing plan (Form EEO 100) identifying the anticipated work force to be utilized on the Contract and if awarded a contract, will, upon request, submit to OGS a workforce utilization report (Form EEO 101) identifying the work force actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises (MWBE)

For purposes of this procurement, OGS has conducted a comprehensive search and has determined that the contract does not offer any opportunities for participation by MWBEs.

ALL FORMS ARE AVAILABLE AT: <http://www.ogs.ny.gov/MWBE/Forms.asp>

5.6 Freedom of Information Law / Trade Secrets

During the evaluation process, the content of each bid/bid will be held in confidence and details of any bid/bid will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process.

SHOULD YOU FEEL YOUR FIRM'S BID/BID CONTAINS ANY SUCH TRADE SECRETS OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION, **YOU MUST SUBMIT A REQUEST TO EXCEPT SUCH INFORMATION FROM DISCLOSURE.** SUCH REQUEST MUST BE IN WRITING, MUST STATE THE REASONS WHY THE INFORMATION SHOULD BE EXEMPTED FROM DISCLOSURE AND MUST BE PROVIDED AT THE TIME OF SUBMISSION OF THE SUBJECT INFORMATION.

REQUESTS FOR EXEMPTION OF THE ENTIRE CONTENTS OF A BID/BID FROM DISCLOSURE HAVE GENERALLY NOT BEEN FOUND TO BE MERITORIOUS AND ARE DISCOURAGED. KINDLY LIMIT ANY REQUESTS FOR EXEMPTION OF INFORMATION FROM DISCLOSURE TO BONA FIDE TRADE SECRETS OR SPECIFIC INFORMATION, THE DISCLOSURE OF WHICH WOULD CAUSE A SUBSTANTIAL INJURY TO THE COMPETITIVE POSITION OF YOUR FIRM.

5.7 General Requirements

- The Bidder agrees to adhere to all State and Federal laws and regulations in connection with the contract.
- The Bidder agrees to notify the Office of General Services of any changes in the legal status or principal ownership of the firm, forty five (45) days in advance of said change.
- The Bidder agrees that in any contract resulting from this IFB it shall be completely responsible for its work, including any damages or breakdowns caused by its failure to take appropriate action.
- The Bidder agrees that any contract resulting from this IFB may not be assigned, transferred, conveyed or the work subcontracted without the prior written consent of the Commissioner of General Services.
- For reasons of safety and public policy, in any contract resulting from this IFB, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.
- For purposes of any contract resulting from this IFB, the State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.
- The Commissioner's interpretation of specifications shall be final and binding upon the Contractor.
- The Commissioner of General Services will make no allowance or concession to the Bidder for any alleged misunderstanding because of quantity, quality, character, location or other conditions.
- Should it appear that there is a real or apparent discrepancy between different sections of specifications concerning the nature, quality or extent of work to be furnished, it shall be assumed that the Bidder has based its bid on the more expensive option. Final decision will rest with the Commissioner of General Services.
- INSPECTION – For purposes of any contract resulting from this IFB, the quality of service is subject to inspection and may be made at any reasonable time by the State of New York. Should it be found that quality of services being performed is not satisfactory and that the requirements of the specifications are not being met, the Commissioner of the Office of General Services may terminate the contract and employ another contractor to fulfill the requirements of the contract. The existing Contractor shall be liable to the State of New York for costs incurred on account thereof.
- STOP WORK ORDER - The Commissioner of General Services reserves the right to stop the work covered by this IFB and any contract(s) resulting there from at any time that it is deemed the successful Bidder is unable or incapable of performing the work to the state's satisfaction. In the event of such stopping, the Office of General Services shall have the right to arrange for the completion of the work in such manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the existing Contractor shall be liable to the State of New York for any such costs on account thereof. In the event that the Office of General Services issues a stop work order for the work as provided herein, the Contractor shall have ten (10) working days to respond thereto before any such stop work order shall become effective.
- It is the Contractor's responsibility to maintain all equipment and materials provided for the work consistent with applicable public safety and health codes.
- The Office of General Services reserves the right to reject any employee hired by the Contractor.

5.8 Contract Terms

All provisions and requirements of, Appendix A Standard Clauses for New York State Contracts, which is attached hereto and forms a part hereof, will be incorporated into any contract resulting from this IFB, and will be binding upon the parties to such contract.

All provisions and requirements, which are attached hereto and form a part hereof, will be incorporated into any contract resulting from this IFB, and will be binding upon the parties to such contract.

It is stipulated and agreed by the parties that the law of the State of New York shall solely and in all respects govern with relation to any dispute, litigation, or interpretation arising out of or connected with any contract resulting from this IFB.

Any contract resulting from this IFB shall not be deemed executed, valid or binding unless and until approved in writing by the Attorney General and the Comptroller of the State of New York.

5.9 Subcontractors

The Contractor's use of subcontractors shall not diminish the Contractor's obligations to complete the work in accordance with the contract. The Contractor shall coordinate and control the work of the subcontractors.

The Contractor shall be responsible for informing the subcontractors of all terms, conditions, and requirements of the contract documents.

During the term of the Contract, before any part of the contract shall be sublet, the Contractor shall submit to the Director of Warehousing and Food Distribution or their designee, Governor Nelson A. Rockefeller Empire State Plaza, 29th Floor, Albany, New York 12242, in writing, the name of each proposed subcontractor and obtain written consent to such subcontractor. The names shall be submitted in ample time to permit acceptance or rejection of each proposed subcontractor without causing delay in the work of this contract. The Contractor shall promptly furnish such information as the Director of Warehousing and Food Distribution Services may require concerning the proposed subcontractor's ability and qualifications.

5.10 Procurement Rights

The State of New York reserves the right to:

1. Reject any and all proposals received in response to this IFB solicitation. .
2. Disqualify a Bidder (Proposer) from receiving the award if the Bidder, or anyone in the Bidder's employ, has previously failed to perform satisfactorily in connection with public bidding or contracts.
3. Correct Proposers' mathematical errors and waive or modify other minor irregularities in proposals received, after prior notification to the Bidder.
4. Adjust any Proposer's expected costs of the bid price based on a determination of the evaluation committee that the selection of the said Proposer will cause the State to incur additional costs.
5. Utilize any and all ideas submitted in the proposals received.
6. Negotiate with Proposers responding to this Solicitation within the Solicitation requirements to serve the best interests of the State.
7. The state may begin contract negotiations with another bidding Contractor(s) in order to serve the best interests of the State of New York should the State of New York be unsuccessful in negotiating a contract with the selected Contractor within 21 days of selection notification.
8. Waive any non-material requirement not met by all Proposers.
9. Not make an award from this IFB.
10. Make an award under this Solicitation in whole or in part.
11. The state reserves the right to make multiple contract awards pursuant to the Solicitation.
12. Have any service completed via separate competitive bid or other means, as determined to be in the best interest of the State.
13. Seek clarifications of proposals.

14. If two or more offers are found to be substantially equivalent, the Commissioner of OGS, at his sole discretion, will determine award.

Please Note: The State is not liable for any cost incurred by a Proposer in the preparation and production of a proposal or for any work performed prior to the issuance of a contract.

5.11 Extent of Services

OGS reserves the right to re-negotiate at its discretion, to reduce the amount of services provided under any contract resulting from this solicitation. Any reduction in services shall be effectuated by written amendment to the contract and subject to approval by the Office of the State Comptroller.

5.12 Right to Know

In accordance with the New York State Toxic Substance Act (Right-to-Know Law) and the United States Occupational Safety and Health Administration's Hazard Communication Standard, the Office of General Services has established and implemented a Right-to-Know/Hazard Communication Program. It is the policy of OGS to provide information and training to advise employees of potentially hazardous substances known to be in the work place. Part of this information is a collection of Material Safety Data Sheets for all chemicals used at State Office Buildings by contract vendors. Before any chemical product is used on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Facility Manager before the chemical is applied.

5.13 Debriefings

Bidders will be accorded fair and equal treatment with respect to their opportunity for debriefing. Prior to contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that bidder's bid. After contract award, OGS shall, upon request, provide a debriefing to any bidder that responded to the IFB, regarding the reason that the bid or bid submitted by the unsuccessful bidder was not selected for a contract award. The post award debriefing should be requested by the bidder within thirty days of contract approval as posted on the OSC website (web address below).

<http://wwe1.osc.state.ny.us/transparency/contracts/contractsearch.cfm>

5.14 Termination

A. Termination

The Office of General Services may, upon thirty (30) days notice, terminate the contract resulting from this IFB in the event of the awarded Bidder's failure to comply with any of the proposal's requirements unless the awarded Bidder obtained a waiver of the requirement. In addition, OGS may also terminate any contract resulting from this IFB upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of the creditors.

Furthermore, OGS shall have the right, in its sole discretion, at any time to terminate a contract resulting from this IFB, or any unit portion thereof, with or without cause, by giving thirty (30) days written notice of termination to the Contractor. Any termination by OGS under this Section shall in no event constitute or be deemed a breach of any contract resulting from this IFB and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

B. Procurement Lobbying Termination

The Office of General Services 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 §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

5.15 NYS Standard Vendor Responsibility Questionnaire

OGS conducts a review of prospective contractors (“Bidders”) to provide reasonable assurances that the Bidder is responsive and responsible. A Questionnaire is used for non-construction contracts and is designed to provide information to assess a Bidder’s responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid, Bidder agrees to fully and accurately complete the “Questionnaire.” The Bidder acknowledges that the State’s execution of the Contract will be contingent upon the State’s determination that the Bidder is responsible, and that the State will be relying upon the Bidder’s responses to the Questionnaire when making its responsibility determination.

OGS recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller’s (OSC) website, http://www.osc.state.ny.us./vendrep/vendor_index.htm or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>

OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Bidders opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at: http://www.osc.state.ny.us/vendrep/forms_vendor.htm

In order to assist the State in determining the responsibility of the Bidder, the Bidder should complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the bid due date.

A Bidder’s Questionnaire cannot be viewed by OGS until the Bidder has certified the Questionnaire. It is recommended that all Bidders become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

The Bidder agrees that if it is found by the State that the Bidder’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, OGS may terminate the Contract. In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

5.16 Ethics Compliance

All proposers/contractors and their employees must comply with the requirements of §§73 and 74 of the Public Officers Law, other state codes, rules, regulations, and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Contract, the Contractor certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relations, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

5.17 Extension of Use

Any contract resulting from the solicitation may be extended to additional State Agencies upon mutual agreement between the requesting agency, OGS, and the contractor, and subject to applicable approvals. OGS reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

5.18 Indemnification

The Contractor shall assume all risks of liability for its performance, or that of any of its officers, employees, subcontractors or agents, of any contract resulting from this solicitation and shall be solely responsible and liable for all liabilities, losses, damages, costs or expenses, including attorney's fees, arising from any claim, action or proceeding relating to or in any way connected with the performance of this Agreement and covenants and agrees to indemnify and hold harmless the State of New York, its agents, officers and employees, from any and all claims, suits, causes of action and losses of whatever kind and nature, arising out of or in connection with its performance of any contract resulting from this solicitation, including negligence, active or passive or improper conduct of the Contractor, its officers, agents, subcontractors or employees, or the failure by the Contractor, its officers, agents, subcontractors or employees to perform any obligations or commitments to the State or third parties arising out of or resulting from any contract resulting from this solicitation. Such indemnity shall not be limited to the insurance coverage herein prescribed its officers, agents, subcontractors or employees to perform any obligations or commitments to the State or third parties arising out of or resulting from any contract resulting from this solicitation. Such indemnity shall not be limited to the insurance coverage herein prescribed.

5.19 Force Majeure

Neither party hereto will be liable for losses, defaults, or damages under any contract resulting from this solicitation which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this solicitation, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

APPENDIX A

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or

reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of

this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce

Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely

affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND

PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a

contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without

discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to

service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the

New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

Appendix- B

Required Procurement Forms

New York State Office of General Services

For

**Warehousing and Distribution
In Region G**

Invitation for Bid Number- 1690

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BIDDER/OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Pursuant to Procurement Lobbying Law (SFL §139-j)

A. 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?
If yes, please answer the following question:

_____YES _____NO

B. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?

_____YES _____NO

C. If yes, was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?
If yes, please provide details regarding the finding of non-responsibility:

_____YES _____NO

Governmental Entity:

Date of Finding of Non-responsibility:

Basis of Finding of Non-Responsibility:
(add additional pages if necessary)

D. Has any 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?
If yes, please provide details:

_____YES _____NO

Governmental Entity:

Date of Termination or Withholding of Contract:

Basis of Termination or Withholding:
(add additional pages if necessary)

New York State Department of Taxation and Finance

Contractor Certification (ST-220-TD)

Contractor Certification to Covered Agency (ST-220-CA)



New York State Department of Taxation and Finance

Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, Question and Answers Concerning Tax Law Section 5-a (see Need help? below).

Contractor name
Contractor's principal place of business City State ZIP code
Contractor's mailing address (if different than above)
Contractor's federal employer identification number (EIN) Contractor's sales tax ID number (if different from contractor's EIN) Contractor's telephone number
Covered agency name Contract number or description Estimated contract value over the full term of the contract (but not including renewals) \$
Covered agency address Covered agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 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.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006), available at www.nystax.gov.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need Help?

Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
Sales Tax Information Center: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Make only one entry in each section below.

Section 1 - Contractor registration status

- The contractor has 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 - Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 - Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not 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 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this _____ day of _____, 20 _____

(sign before a notary public)

(title)

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF _____ }
 : SS.:
 COUNTY OF _____ }

On the _____ day of _____ in the year 20____, before me personally appeared _____ known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that

_he resides at _____ ,

Town of _____ ,

County of _____ ,

State of _____ ; and further that:

[Mark an **X** in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
- (If a corporation): _he is the _____ of _____ , the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- (If a partnership): _he is a _____ of _____ , the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- (If a limited liability company): _he is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

 Notary Public

Registration No. _____



ST-220-CA

(6/06)

New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, *Question and Answers Concerning Tax Law Section 5-a (see Need Help? on back)*.

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)	
Contractor's telephone number ()		\$	
Covered agency name			
Covered agency address		Covered agency telephone number	

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) (title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:
(Mark an X in only one box)

- The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.
- The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)
and, to the best of the contractor's knowledge, the information provided on that previously filed Form T-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this _____ day of _____, 20 _____

(sign before a notary public)

(title)

Instructions

General Information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

Bidder is required to sign both sections on this page.

MACBRIDE FAIR EMPLOYMENT PRINCIPLES

**NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND:
MACBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with Chapter 807 of the Laws of 1992 the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either: (answer yes or no to one or both of the following, as applicable:

1. Have business operations in Northern Ireland,

Yes No

If yes:

2. 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 relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes No

(Contractor's Signature)

(Name of Business)

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each 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 knowledge and belief: 1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose 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.

(Contractor's Signature)

(Name of Business)

Appendix- C

List of Recipient Agencies

New York State Office of General Services

For

**Warehousing and Distribution
In Region G**

Invitation for Bid Number- 1690

No.	Name	Address 2	City
G001	Webutuck Central School	Box N, Haight Rd.	Amenia
G002	Beacon Public Schools	29 Education Drive	Beacon
G004	Onteora Central School	Rte.28	Boiceville
G006	Monroe Woodbury Central School	9 No Main St, PO Box 1033	Harriman
G007	Cornwall Central High School	130 Main Street	Cornwall
G008	Dover Union Free School	PO Box 6311	Dover Plains
G009	Eldred Central School	600 Rt 55, PO Box 249	Eldred
G011	West Point School	705 Barry Road	West Point
G012	Goshen Central School	41 Lincoln Avenue	Goshen
G014	Tri Valley Central School	34 Moore Hill Rd.	Grahamsville
G015	Highland Central School	320 Pancake Hollow Rd.	Highland
G016	Red Hook Central School	9 Mill Road	Red Hook
G017	Hyde Park Central School District	PO Box 2033	Hyde Park
G019	Sullivan West CSD	33 Schoolhouse Hill Rd., PO Box 308	Jeffersonville
G020	Kingston City School District	Merilina Ave.	Kingston
G022	Millbrook Central School	Box AA, Alden Place	Millbrook
G023	Liberty Central School	115 Buckley Street	Liberty
G024	Livingston Manor Ctl School	19 School Street	Livingston Manor
G025	New York Military	78 Academy Avenue	Cornwall-on-Hudson
G026	Marlboro Central School	Plattekill & Crossroads	Marlboro
G027	Dutchess County - B.O.C.E.S.	5 BOCES Rd	Poughkeepsie
G028	Middletown Public School	223 Wisner Avenue Ext.	Middletown
G029	Florida Union Free School Dist.	51 N.Main St.,PO Drawer 757	Florida
G031	Carmel Central School	81 South St., PO Box 296	Patterson
G032	Haldane Central School District	15 Craigsid Drive	Cold Spring
G033	Greenwood Lake UFSD	PO Box 8, 80 Waterstone St.	Greenwood Lake
G034	Nanuet Public Schools	101 Church Street	Nanuet
G035	Valley Central School	944 Route #17K	Montgomery
G036	Monticello Central School	237 Forestburgh Rd.	Monticello
G039	Newburgh City Schools	124 Grand Street	Newburgh
G041	Highland Falls - Fort Montgomery	PO Box 287, Rte.9W	Highland Falls
G042	New Paltz Central School	196 Main Street	New Paltz
G043	Pelham Union Free School	18 Franklin Place	Pelham

G044	Hendrick Hudson Central School	61 Trolley Road	Montrose
G045	Put/No.Westchester BOCES	200 BOCES Dr.	Yorktown Heights
G046	Pine Bush Central School	Rte.302, PO Box 700	Pine Bush
G047	Pine Plains Central School	2829 Church St.	Pine Plains
G048	Chester Union Free School Dist	64 Hambletonian Ave	Chester
G049	Port Jervis High School	9 Thompson St.	Port Jervis
G050	Arlington Central School	PO BOX 127	LaGrangeville
G051	Orange-Ulster B.O.C.E.S.	53 Gibson Road	Goshen
G052	Poughkeepsie School/Middle School	70 Forbus St.	Poughkeepsie
G053	Pearl River Public Schools	275 E.Central Avenue	Pearl River
G054	Spackenkill Union Free School	11 Croft Road	Poughkeepsie
G055	Pleasantville UFSD	60 Romer Ave	Pleasantville
G056	Rhinebeck Central School	48 Knollwood Road	Rhinebeck
G058	Roscoe Central School	6 Academy St., Box 429	Roscoe
G059	Saugerties High School	Call Box A Washington Ave.Ext.	Saugerties
G060	Fallsburg Central School	115 Brickman Rd.,PO Box 123	Fallsburgh
G061	Rondout Valley Central School	PO Box 9	Accord
G062	Tuxedo Union Free School	Rte. 17	Tuxedo
G063	Port Chester Middle School	PO Box 246,Bowman Avenue	Port Chester
G064	Wallkill Central School	109 Bona Ventura Ave.,PO Bx 310	Wallkill
G065	Wappingers Central School District	167 Myers Corners Road	Wappingers Falls
G066	Washingtonville Central School	52 W.Main Street	Washingtonville
G067	East Ramapo Central School Dist	40A Grandview Ave.,Ctl Kit'n	Spring Valley
G069	Warwick Valley Central School	PO Box 595, West St. Ext.	Warwick
G071	Brewster Central School Dist.	30 Farm to Market Rd.	Brewster
G072	Minisink Valley Central School	PO Box 217	Slate Hill
G073	Sullivan County Boces	6 Wierk Avenue	Liberty
G075	Pawling Central School Dist.	7 Haight Street	Pawling
G076	Ardsley Union Free School	500 Farm Road	Ardsley
G077	Byram Hills School District #1	12 Tripp Lane	Armonk
G078	Briarcliff Manor U.F.S.D.	444 Pleasantville Rd.	Briarcliff Manor
G079	Blind Brook-Rye UFSD	390 No. Ridge Street	Rye Brook
G080	Mount Vernon High School	100 California Road	Mount Vernon
G081	Chappaqua Central School	PO Box 21, 66 Roaring Brook Rd	Chappaqua

G082	Ulster County Boces	Rte 9W	Port Ewen
G083	Mamaroneck Public Schools	1000 W.Boston Post Rd.	Mamaroneck
G084	Dobbs Ferry Union Free School	505 Broadway	Dobbs Ferry
G085	Harrison Central School	255 Union Ave.	Harrison
G086	Greenburgh CSD	475 W.Hartsdale Avenue	Hartsdale
G087	Fresh Air Fund - Camp Hidden Vly	Sharpe Reservation - RT 3	Fishkill
G088	Holy Rosary School	180 Bradhurst Avenue	Hawthorne
G089	Rye Neck Union Free School	310 Hornidge Road	Mamaroneck
G090	Lakeland Central School	1086 E.Main Street	Shrub Oak
G091	Bedford Central School District		Bedford
G092	New Rochelle Public School	265 Clove Road	New Rochelle
G093	Tarrytown Public Schools	200 No.Broadway	North Tarrytown
G094	Ossining School District	190 Croton Ave.	Ossining
G095	Peekskill City School District	1031 Elm Street	Peekskill
G096	Hastings-on-Hudson UFSD	27 Farragut Ave	Hasting-on-Hudson
G099	Charter School of Educational Excellence	260 Warburton Ave.	Yonkers
G100	San Miguel Academy of Newburg	241 Liberty St.	Newburg
G101	Somers Central School	Somers H.S - PO Box 640	Lincolndale
G102	Katonah-Lewisboro UFSD	60 N.Salem Rd. - Rt 121	Cross River
G103	North Salem Central School	Route #124	North Salem
G105	Pocantico Hills Central School	599 Bedford Road	Sleepy Hollow
G106	Mount Pleasant Central School	825 Westlake Drive	Thornwood
G108	Valhalla Union Free School	300 Columbus Avenue	Valhalla
G109	City School District of White Plains	550 North Street	White Plains
G110	Yonkers Public Schools	1 Larkin Center	Yonkers
G111	Sacred Heart School	34 Convent Avenue	Yonkers
G112	Yorktown Central School	2727 Crompond Road	Yorktown Heights
G113	North Rockland Central Schools	65 Chapel Street	Garnerville
G114	South Orangetown Central School	160 Van Wyck Road	Blauvelt
G116	Nyack Public Schools-Nyack High	360 Christian Herald Road	Nyack
G117	Clarkstown Central School	151 Congers Rd	New City
G120	Irvington Union Free School District		Irvington
G124	Tuckahoe Union Free School	29 Elm Street	Tuckahoe
G125	B.O.C.E.S. Rye Lake Campus	1606 Old Orchard Street	White Plains

G126	Elmsford U.F.S.D.	South Hillside Avenue	Elmsford
G127	Ellenville Central School	28 Maple Avenue	Ellenville
G128	St. Paul's Church/School	365 Kings Highway	Valley Cottage
G129	Taconic Outdoor Education Center	75 Mtn. Laurel Lane	Cold Spring
G130	Holy Trinity School	20 Springside Avenue	Poughkeepsie
G133	Yonkers Christian Academy	229 No.Broadway	Yonkers
G200	Putnam Valley Central School	146 Peekskill Hollow Rd.	Putnam Valley
G202	Mahopac High School	421 Baldwin Place Road	Mahopac
G210	Ramapo Central School District	45 Mountain Avenue	Hillburn
G211	The Childrens Annex Inc	70 Kukuk Lane	Kingston
G212	St.Anthonys School	34 W.Nyack Road	Nanuet
G215	St. Joseph School	25 St. Joseph Dr., PO Box 587	Millbrook
G300	Sullivan County Jail	4 Bushnell Avenue	Monticello
G302	Rockland County Sheriffs Department	55 New Hempstead Road	New City
G305	Julia Dyckman Andrus Memorial	1156 No.Broadway	Yonkers
G307	REHAB Programs, Inc.	70 Overocker Road.	Poughkeepsie
G308	Devereux Foundation	40 Devereux Way	Red Hook
G309	Daytop Village Preparatory School	54 W.40th Street	New York
G311	Anderson School	4885 Rte.9,PO Box 367	Staatsburg
G322	New Hope Manor	35 Hillside Road	Barryville
G325	Summit Children's Center	339 No.Broadway	Upper Nyack
G326	Childrens Home of Kingston	26 Grove Street	Kingston
G329	Yonkers Residential Center Inc	317 So.Broadway	Yonkers
G332	Green Chimneys Child /services	Caller Box 719, 400 Doansburg Rd	Brewster
G345	Youth Shelter Prgm/Westchester	220 E. 8th Street	Mount Vernon
G354	Lincoln Hall	PO Box 600	Lincolndale
G361	NYS School For The Deaf	555 Knollwood Road	White Plains
G362	Jewish Child Care Assoc. Of NY	1075 Broadway	Pleasantville
G366	Children's Village - Purchasing	Echo Hill Road	Dobbs Ferry
G368	Abbott House	100 No.Broadway	Irvington
G370	Cardinal McCloskey	155 N. Highland Ave.	Ossining
G371	Hawthorne Cedar Knolls	226 Linda Ave.	Hawthorne
G372	St. Christopher's- Jennie Clarkson	71 So.Broadway	Dobbs Ferry
G373	Graham Windham Home for Childrn	One So.Broadway	Hastings on Hudson

G390 Family House/Fam of Woodstock
G393 Cardinal Hayes Home for Children
G397 The Children's Home
G400 Head Start of Rockland
G406 Community Family Development Inc
G409 Poughkeepsie Day Nursery(WheatonPark)
G411 Ossining Childrens Center
G412 West Street Day Care Center
G417 Wolf's Day Care Center

949 Creek Locks Rd
Box CH, 60 St.Joseph Drive
10 Children's Way
501 Airport Executive Park
269 Mill Street
36 No.Clover Street
90 So.Highland Avenue
96 No.Main Street
181 North Drive

Rosendale
Millbrook
Poughkeepsie
Nanuet
Poughkeepsie
Poughkeepsie
Ossining
Spring Valley
Saugerties

Appendix- D

Sample Service Agreement

New York State Office of General Services

For

**Warehousing and Distribution
In Region G**

Invitation for Bid Number- 1690



ANDREW M. CUOMO
GOVERNOR

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
OFFICE OF GENERAL SERVICES

ROANN M. DESTITO
COMMISSIONER

MAYOR ERASTUS CORNING 2ND TOWER
THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA
ALBANY, NEW YORK 12242

SERVICE AGREEMENT

Contract No. _____
Solicitation No. 1690
Term: _____

This agreement made this ____ day of _____ 2012 by and between THE PEOPLE OF THE STATE OF NEW YORK, hereinafter referred to as "STATE", acting by and through Roann M. Destito, the Commissioner of General Services, thereafter referred to as "Commissioner", whose office is in the Mayor Erastus Corning II Tower, Empire State Plaza, the City and County of Albany, State of New York and; _____ hereinafter referred to as "Contractor."

WHEREAS, the State has formally requested contractors for proposals for the following described project, Warehousing and Distribution Services of USDA Donated Food Commodities for Region G, a copy of which is hereto annexed and made a part thereof, hereinafter referred to as the "Invitation for Bids" or "IFB", and;

WHEREAS, the Commissioner has determined that the contractor is the successful bidder, and the contractor is willing to undertake the services and to provide the necessary materials, labor, and equipment in connection therewith.

NOW THEREFORE, in consideration of the terms hereinafter mentioned and also the covenants and obligations moving to each party hereto from the other, the parties hereto do hereby agree as follows:

- 1) The Contractor agrees to perform this contract and to furnish the services, labor and materials required in connection therewith, in accordance with all of the conditions, covenants and representations contained in the proposal and specifications which are hereto annexed and incorporated herein and which are deemed to be a part of this contract with the same force and effect as herein set forth separately, specifically and at length, and the State agrees to pay to the Contractor therefore those rates specified in the proposal.

- 2) It is understood by and between the parties hereto that this agreement shall be deemed executory to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the purpose thereof.
- 3) The established maximum value of this contract shall be set at \$ _____, and shall not be exceeded.
- 4) Inconsistencies:

In the event of any discrepancy, disagreement or ambiguity between this contract agreement and its Appendices, or between any Appendices, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity:

- (i) Appendix A
- (ii) This Contract Agreement
- (iii) Invitation for Bid including any Addenda
- (iv) The Contractor's Bid

- 5) Termination:

A.) Termination

The Office of General Services may, upon thirty (30) days notice, terminate this Agreement in the event of the Contractor's failure to comply with any of the bid's requirements unless the Contractor obtained a waiver of the requirement. In addition, OGS may also terminate this Agreement upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of creditors. Furthermore, OGS shall have the right, in its sole discretion, at any time to terminate this Agreement, or any unit portion thereof, with or without cause, by giving thirty (30) days written notice of termination to the Contractor. Any termination by OGS under this Section shall in no event constitute or be deemed a breach of this Agreement and no liability shall be incurred by or arise against the Office of General Services, its agents and employees therefore for lost profits or any other damages.

B.) Procurement Lobbying Termination

The Office of General Services 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 §139-k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

- 6) By signing this Service Agreement, Contractor certifies that all information provided to OGS with respect to State Finance Law §139-k is complete, true and accurate.
- 7) In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of contract and the Contractor shall be liable to OGS for liquidated or other appropriate damages, as set forth in the solicitation.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CONTRACT NO. _____

(To be completed by Agency)

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.)

AGENCY SIGNATURE

CONTRACTOR'S SIGNATURE

SIGNATURE

SIGNATURE

PRINT NAME

PRINT NAME

TITLE

TITLE

DATED _____

DATED _____

COMPANY

ADDRESS

CITY STATE / ZIP

TELEPHONE NUMBER

FEDERAL I.D. NUMBER

ATTORNEY GENERAL'S SIGNATURE

Approved:

COMPTROLLER'S SIGNATURE

DATED _____

DATED _____

ATTACHMENT 1

NYS Office of General Services
 Financial Administration
 40th FL - Corning Tower
 Empire State Plaza
 Albany, NY 12242 **IFB-1690**

CONTRACT NO. _____
 (to be completed by agency)

Contractor's Name _____

BID PROPOSAL FORM

NOTE: This Bid Proposal Form must be completed and signed in quadruplicate.

The above Contractor Agrees to provide all warehousing, storage, handling and delivery of USDA food commodities and processed commodities in Region-G for the counties of: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester in accordance with the specifications in this IFB for the prices bid below:

Item A: Cost per case for received, stored and delivered commodities (see Section 3.3):

<u>*# of Cases</u>	<u>**Est. # of Cases/Month</u>	<u>X</u>	<u>\$ Amount/case</u>	<u>X</u>	<u>***# of months</u>	<u>Total</u>
1) 1 to 49	2,000	X	\$_____/case	X	10	= \$_____
2) 50 to 99	2,800	X	\$_____/case	X	10	= \$_____
3) 100 to 149	2,500	X	\$_____/case	X	10	= \$_____
4) 150 to 199	2,500	X	\$_____/case	X	10	= \$_____
5) 200+ cases	<u>12,000</u>	X	\$_____/case	X	10	= \$_____
Total est. # of cases /mo = 21,800						
A6) SUBTOTAL of A1 through A5						= \$_____

Item B: Monthly storage cost per case (for items exceeding 60 days - see Section 3.3)

1) Estimated 4,650 cases /mo (x) \$_____/case = \$_____/mo (x) 2 months **(B1 – Total)** = \$_____

GRAND TOTAL ANNUAL BID (A6 + B1) = \$_____

* See Section 3.3
 ** Estimates are for bid evaluation purposes only.
 *** The food distribution program is based on 10 months per year.

 DATE

 SIGNATURE

 PRINT NAME / TITLE