



DIVISION OF FINANCIAL ADMINISTRATION

**ADDENDUM No. 2**

**Invitation for Bids # 1836**

Date: February 25, 2014

Subject: Questions, Answers and Clarifications

Title: USDA Food Warehousing and Distribution in Region F

Proposal Due Date: **Wednesday, March 19, 2014 @ 2:00 PM**

Address Bids to: T.J. Karl  
Division of Financial Administration  
NYS Office of General Services  
32nd Floor, Corning Tower  
Empire State Plaza  
Albany, New York 12242  
IFB No. 1836 – USDA Food Warehousing and Distribution

**To Prospective Proposers:** This addendum is to provide the following: answers and/or clarifications to the questions that were submitted regarding IFB #1836:

**Questions/Answers/Clarifications:**

Q1. The estimated 17,000 square footage for commodities appears aggressive based on the estimated cases per month. Do you have an idea of estimated cubic space?

**A1. Space was estimated to ensure facility could handle 2+ months of storage. Cubic space required is as follows:**

- **26,280 cubic feet freezer**
- **11,280 cubic feet cooler**
- **37,500 cubic feet dry**

Q2. Is it possible to bid on the distribution without storage and receiving?

**A2. No, as stated on the cover and throughout the solicitation document, this is for the warehousing and delivery of USDA foods.**

Q3. Can we get the finance contact to discuss previous award for both Region F and IFB#1836? We have been a service provider on foodservice distribution for both regions and the contracting offices for the foodservice distribution generally has a bid opening and award shared with all bidders. We want to make sure we are not missing any information and ensure we can be competitive with OGS donated commodities while providing the same service levels on the foodservice side.

**A3. The prior contract for Region F is #C003194. Public information regarding this contract can be found at the following link: <http://www.openbooknewyork.com/> by selecting search State Contracts. If you want to be able to actually view the contract you would need to submit a FOIL request. Here is a link: <http://www.ogs.ny.gov/About/Freedom.asp>**

Q4. Can an extension be granted if you want to bid on the storage and receiving but will not have available space until Oct./Nov.? If so, what are the recommendations?

**A4. No, schools start in September and need the availability of food. Subcontracting is an option but we will only deal with the winning vendor.**

Q5. Is the previous award available for interested bidders?

**A5. The previous award was for warehousing so it would not be comparable. If you still want to view it, the prior contract for Region F is #C003194. Public information regarding this contract can be found at the following link: <http://www.openbooknewyork.com/> by selecting search State Contracts. If you want to be able to actually view the contract you would need to submit a FOIL request. Here is a link on how to do so: <http://www.ogs.ny.gov/About/Freedom.asp>**

Q6. Does the storage facility need to be located within the proposed distribution area?

**A6. See Section 1.4 Minimum Bidder Qualifications**

Q7. Could you provide a history of past volume?

**A7. See Section 4.1 Contractor Service Requirements for the estimated annual per case volume**

All other terms and conditions remain unchanged.

If submitting a proposal, this Addendum #2 for IFB #1836 must contain an original signature, be dated, attached to, and made a part of your proposal.

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

Address (include City, State, Zip) \_\_\_\_\_

Bidders Name (please print) \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



DIVISION OF FINANCIAL ADMINISTRATION

**ADDENDUM No. 1**

**Invitation for Bids # 1836**

Date: February 11, 2014

Subject: Delivery Location Addresses & Bid Due Date Change

Title: USDA Food Warehousing and Distribution in Region F

Proposal Due Date: **Wednesday, March 19, 2014 @ 2:00 PM**

Address Bids to: T.J. Karl  
Division of Financial Administration  
NYS Office of General Services  
32nd Floor, Corning Tower  
Empire State Plaza  
Albany, New York 12242  
IFB No. 1836 – USDA Food Warehousing and Distribution

**To Prospective Proposers:** This addendum is to provide the following: addresses of delivery locations and new bid due date regarding IFB #1836:

- Bid due date has been moved to March 19, 2014.
- Please see the attached spreadsheet (Attachment 1) listing school name, address, contact name, phone number and e-mail address.

All other terms and conditions remain unchanged.

If submitting a proposal, this Addendum #1 for IFB #1836 must contain an original signature, be dated, attached to, and made a part of your proposal.

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

Address (include City, State, Zip) \_\_\_\_\_

Bidders Name (please print) \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**ADDENDUM 1**

**ATTACHMENT 1**

**IFB #1836**

School Code	School Name	FSD	Building 1 Name	Building 1 Address, City, Zip	Building 1 Contact Name	Building 1 Telephone
F004	Clinton-Essex-CVES	Charlene O'Connor	Plattsburgh High School	1 Clifford Drive, Plattsburgh, NY 12901	Charlene O'Connor	(518) 561-7500
F005	Brushton-Moira Central School	Mary Ellen McKane/Scott Spillane	Brushton-Moira Central	758 County Route 7, Brushton, NY 12916	Mary Ellen McKane/ Scott Spillane	(518) 529-7342 ext 1208
F006	Canton Central School	Blue Jay Fenlong	H.C. Williams High School	99 State Street, Canton, NY 13617	Blue Jay Fenlong	(315) 386-8561 ext 5410
F008	Tupper Lake Central School	Bob LaMare	L.P. Quinn Elementary School	294 Hosley Ave, Tupper Lake, NY 12986	Bob LaMare	(518) 359-3322 ext 1019
F009	Chateaugay Central Schools	Doreen Roach	Chateaugay Central Schools	42 River Street, PO Box 904, Chateaugay, NY 12920	Doreen Roach	(518) 497-6611 ext 2018
F010	Colton-Pierrepont Central School	Arlie Frego	CPCS	4924 SH 56, Colton, NY 13625	Nora Buckley - Site Manager	(315) 262-2100 ext 130
F011	Long Lake Central School	Victoria Snide	Long Lake Central School	20 School Lane, Long Lake, NY 12847	Karl Geiger	(518) 624-2221 ext 101
F012	Crown Point Central School	Debra Manley	Crown Point Central School	2758 Main Street, Crown Point, NY 12928	Deborah Manley	(518) 593-9285
F014	Elizabethtown-Lewis Central School	Alicia Slattery	Elizabethtown-Lewis Central School	7530 Court Street, Elizabethtown, NY 12932	Alicia Slattery	(518) 873-6371 ext. 315
F015	Northern Adirondack Central School	Lisa A Carler	Northern Adirondack Middle/High School	PO Box 164, 5586 Rt 11, Ellenburg Depot, NY 12935	Lisa Carler	(518) 594-2962 ext 3020
F016	Indian Lake Central School	Julia Gundel	Indian Lake Central School	6345 NYS Route 30, Indian Lake, NY 12842	Julia Gundel	(518) 648-5024
F017	Salmon River Central School	Mary Ellen McKane	Salmon River Central	637 County Route 1, Ft. Covington, NY 12937	Mary Ellen McKane	(518) 358-6682
F017	Salmon River Central School	Mary Ellen McKane	St. Regis Mohawk	385 Church Street, Hogsburg, NY 13655	Barb Derouchie	(315) 287-1690
F019	Gouverneur Central School	Christine Bristol	Eastside Elementary	111 Gleason Street, Gouverneur, NY 13642	Christine Bristol	(315) 287-1690
F020	Hammond Central School	Tammy Gallagher	Hammond Central School	51 S. Main Street, Hammond, NY 13646	Tammy Gallagher	(315) 324-5931 ext 812
F021	Hermon Dekalb Central School	Thomas Felcie	Hermon Dekalb Central School	709 East Dekalb Road, Dekalb Junction, NY 13630	Thomas Felcie	(315) 347-3442
F022	Heuvelton CSD	Stephen Adams	Heuvelton CSD	87 Washington Street, Heuvelton, NY 13654	Stephen Adams	(315) 344-2414 ext 3418
F023	Keene Central School	Julie Holbrook	Keene Central School	33 Market Street, Keene Valley, NY 12943	Julie Holbrook	(518) 576-9627
F024	Ausable Valley Central School	Michelle Martineau	AVCS Middle / High School	1490 Rt 9N, Clintonville, NY 12924	Michelle Martineau	(518) 834-2805
F024	Ausable Valley Central School	Michelle Martineau	Keesville Elementary	1825 Route 22, Keeseville, NY 12944	Marilyn Plishka	(518) 834-2852
F024	Ausable Valley Central School	Michelle Martineau	Ausable Forks Elementary	28 West Church St., Ausable Forks, NY 12912	Marsha Buskey	(518) 647-5599
F025	Lake Placid Central School	Susan Rossi	Lake Placid Middle/High School	50 Cummings Rd, Lake Placid, NY 12946	Susan Rossi	(518) 578-5987
F026	Lisbon Central School	Rick Anderson	Lisbon Central School	6866 County Route 10, Lisbon, NY 13658	Rick Anderson	(315) 398-4951 ext 1108
F028	Madrid-Waddington CSD	Stephen Adams	Madrid-Waddington CSD	2882 St Hwy 345, Madrid, NY 13660	Stephen Adams	(315) 322-5746 ext 230
F029	Malone Central School	Rick Wilkins	Franklin Academy	42 Huskie Lane, Malone, NY 12953	Rick Wilkins	(518) 486-7807 ext 7405
F030	Northeastern Clinton CS	Margaret McComb	Northeastern Clinton	103 Rte 276, Champlain, NY 12919	Peggy McComb	(518) 298-7894
F032	Moriah Central School	Mary Supernault	Moriah Central School	39 Viking Lane, Port Henry, NY 12974	Mary Supernault	(518) 546-3301 ext 302
F034	Seton Catholic Central	Susan Bushey	Seton Catholic Central	206 New York Rd., Plattsburgh, NY 12903	Susan Bushey	(518) 561-4031 ext 121
F037	Newcomb Central School	Tina Helms	Newcomb Central School	Route 28N, Newcomb, NY 12852	Sandy Turcotte	(518) 582-5899
F039	Norwood-Norfolk Central School	Arlie Frego	Norwood Norfolk Central School	7852 SH 56, Norwood, NY 13668	Patty Penny Cutler - Manager	(518) 353-6631 ext 3521
F040	Ogdensburg Public Schools	Brian Mitchell	Ogdensburg Free Academy	1100 State Street, Ogdensburg, NY 13669	Brian Mitchell	(315) 393-0900
F042	Minerva Central School	Terri Palmer	Minerva Central School	1466 County Route 29, Olmstedville, NY 12857	Terri Palmer	(518) 251-2000
F043	Parishville-Hopkinton Central School	David Gravin	Parishville-Hopkinton Central School	12 County Route 47, Parishville, NY	David Gravin / Chris Carling	(315) 265-2000 ext 472/473
F045	Peru Central School	Jeannine Kerr	Peru Secondary School	17 School Street, Peru, NY 12972	Jeannine Kerr	(518) 643-6026
F045	Peru Central School	Jeannine Kerr	Peru Elementary School	116 Pleasant Street, Peru, NY 12972	Jeannine Kerr	(518) 643-6026
F046	Plattsburgh CSD	Charlene O'Connor	Plattsburgh High School	1 Clifford Drive, Plattsburgh, NY 12901	Charlene O'Connor	(518) 561-7500
F049	Seton Academy	Tammy Arsenault	Seton Academy	23 St. Charles Street, Plattsburgh, NY 12901	Tammy Arsenault	(518) 563-6330
F050	Potsdam Central School	David Gravin	AAK Middle School	54 Lawrence Ave., Potsdam, NY 13676	David Gravin	(315) 265-2000 ext 472/473
F051	Edwards-Knox Central School	Kathleen Whitmarsh	Edwards-Knox Central School	2512 CR 24, Russell, NY 13684	Kathleen Whitmarsh	(315) 562-8130 ext 1507
F052	St. Regis Falls Central School	Scott Spillane/ Mary Ellen McKane	St. Regis Falls Central School	92 N Main Street, St. Regis Falls, NY 12980	Scott Spillane/ Mary Ellen McKane	(518) 856-9421 ext 8
F053	Saranac CSD	Kathy Garrant	Saranac Middle School	70 Picketts Corner Road, Saranac, NY 12981	Kathy Garrant	(518) 565-5705
F054	St. Lawrence-Lewis BOCES	Gail Jenkins	Seaway Area Tech Center	7225 State Highway 56, Norwood, NY 13668	Gail Jenkins	(315) 353-2293 ext 20100
F056	Saranac Lake Central School	Ruth Pino	Saranac Lake High School	79 Canaras Ave, Saranac Lake, NY 12983	Bryan McGivney	(518) 897-1729
F057	Schroon Lake Central School	Julie Holbrook	Schroon Lake Central School	1125 US Route 9, Schroon Lake, NY 12870	Julie Holbrook	(518) 532-7164
F058	Clifton Fine Central School	Dora Hanley	Clifton Fine Central School	11 Hall Ave., Star Lake, NY 13690	Dora Hanley	(315) 848-3333 ext. 147
F062	Westport Central School	Tricia Fields	Westport Central School	25 Sisco Street, Westport, NY 12993	Tricia Fields	(518) 962-8244
F063	Willsboro Central School Dist.	Jane Casamento	Willsboro Central School	29 School Lane, Willsboro, NY 12996	Jane Casamento	(518) 963-4456 ext 229
F064	Brasher Falls Central School	Melany Cline	Brasher Falls Central School	1039 State Hwy 11C, Brasher Falls, NY13613	Melany Cline	(315) 389-5131 ext 1138
F064	Brasher Falls Central School	Melany Cline	Brasher Falls Elementary	George Street, Brasher Falls, NY 13613	Melany Cline	(315) 389-5131 ext 1138
F065	Beekmantown Central School	Roxann Barnes	Beekmantown High School	37 Eagle Way, NY 12992	Roxann Barnes	(518) 563-8685
F066	Massena Central School	Peter Bertrand	Massena High School	84 Nightengale Ave., Massena, NY 13662	John Sheets / Chrissy Phillips	(315) 764-3710 ext 3114
F070	St. Mary's School	Pam Neal	St. Mary's School	2 Power Street, Canton, NY 13617	Pam Neal	(315) 386-3572
F074	Chazy Central School	John Fairchild	Chazy Central Rual School	609 Miner Farm Road, Chazy, NY 12921	John Fairchild	(518) 846-7135 ext. 508
F078	St. James School	Sandra Maloy	St. James School	20 S. Gordon Street, Gouverneur, NY 13642	Sandra Maloy	(315) 287-0130
F080	Morristown Central School Dist	George Mullikin	Morristown Central School	408 Gouverneur St., Morristown, NY 13664	George Mullikin	(315) 375-8814
F082	Trinity Catholic School	Michele Chartrand	Trinity Catholic School	188 Main Street, Massena, NY 13662	Michele Chartrand	(315) 764-0012 or (315) 769-5911
F085	The Holy Name of Jesus Academy	Sr. Mary Jordan	The Holy Name of Jesus Academy	337 Trippany Road, Massena, NY 13662	Sr. Mary Jordan	(315) 769-6030
F303	St Lawrence County Correctional Facility	Jennifer Parker - Head Cook	St Lawrence County Correctional Facility	17 Commerce Lane, Canton, NY13617	Jennifer Parker - Head Cook	(315) 379-2451
F304	National Sports Academy	Tim Dulka	National Sports Academy	821 Mirror Lake Drive, Lake Placid, NY 12946	Tim Dulka	(518) 523-3460
F306	Mountain Lake Children's Residence	Carl Bowen	Mountain Lake Children's Residence	386 River Road, Lake Placid, NY 12946	Carl Bowen	(518) 523-4300 ext 156
F402	SUNY Potsdam Child Care Center	Lori Moulton	Merritt Hall, SUSP	44 Pierrepont Ave., Potsdam, NY 13676	Lori Moulton	(315) 267-2391
F409	Potsdam Building Blocks Day Care	Marlene Pickering	Potsdam Building Blocks Day Care	6604 State Highway 56, Potsdam, NY 13676	Marlene Pickering	(315) 265-8260



**INVITATION FOR BIDS (IFB) #1836 SOLICITED BY THE  
NEW YORK STATE OFFICE OF GENERAL SERVICES**

**For**

**Warehousing & Distribution (Delivery) Services  
of USDA Donated Food Commodities  
Region F - Counties of Clinton, Essex, Franklin & St.  
Lawrence**

**BID DUE DATE: March 12, 2014 @ 2:00 P.M**

**Issue Date: January 23, 2014**

**Designated Contact:**

T.J. Karl  
Voice: 518-474-5981

**Alternate Contact:**

Diane Robinson  
Same

E-mail: [thomas.karl@ogs.ny.gov](mailto:thomas.karl@ogs.ny.gov)

[diane.robinson@ogs.ny.gov](mailto:diane.robinson@ogs.ny.gov)

## Table of Contents

<b>1. INTRODUCTION</b>	<b>4</b>
1.1 Overview	4
1.2 Designated Contact	4
1.3 Key Events	5
1.4 Minimum Bidder Qualifications	5
<b>2. BID SUBMISSION</b>	<b>6</b>
2.1 IFB Questions and Clarifications	6
2.2 Bid Format and Content	6
2.3 Bid Preparation	6
2.4 Packaging of IFB Response	6
2.5 Instructions for Bid Submission	7
2.6 Examination of Existing Building and Contract Documents	7
<b>3. ADMINISTRATIVE INFORMATION</b>	<b>9</b>
3.1 Issuing Office	9
3.2 Method of Award	9
3.3 Price	9
3.4 Term of Contract	9
3.5 Price Adjustment (Escalation / De-escalation)	9
3.6 Method of Payment	10
3.7 Electronic Payment	10
3.8 Past Practice	11
3.9 Bid Exceptions	11
3.10 Dispute Resolution	11
3.11 Prime Contractor Responsibilities	11
3.12 Inspection of Books	11
3.13 Glossary of Terms	11
3.14 Rules of Construction	12
<b>4. SCOPE OF WORK</b>	<b>13</b>
4.1 Contractor Service Requirements	13
4.2 Care of Commodities	14
4.3 Damages	14
4.4 Deliveries	15
4.5 Commodity Holds and Recalls	16
4.6 Emergency Services	16
4.7 Staffing Expectations	16
4.8 Administrative and Reporting Requirements	16
<b>5. CONTRACT CLAUSES AND REQUIREMENTS</b>	<b>18</b>
5.1 Appendix A / Order of Precedence	18
5.2 Procurement Lobbying Requirement	18
5.3 Contractor Insurance Requirements	18

**IFB #1836**

**Warehousing and Distribution Services**

**Region F (Clinton, Essex, Franklin and St. Lawrence Counties)**

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5.4	Tax and Finance Clause .....	19
5.5	M/WBE and EEO Requirements .....	20
5.6	Freedom of Information Law / Trade Secrets .....	22
5.7	General Requirements .....	22
5.8	Contract Terms .....	23
5.9	Subcontractors .....	23
5.10	Procurement Rights .....	23
5.11	Extent of Services .....	24
5.12	Debriefings .....	24
5.13	Termination .....	24
5.14	NYS Vendor Responsibility Questionnaire For-Profit Business Entity .....	24
5.15	Ethics Compliance .....	25
5.16	Extension of Use .....	25
5.17	Indemnification .....	25
5.18	Force Majeure .....	25
5.19	Iran Divestment Act .....	26
5.20	Encouraging Use of New York State Businesses in Contract Performance .....	26

Appendix A.....Standard Clauses for New York State Contracts

Appendix B.....Required Forms

Appendix C.....Sample Contract

Appendix D.....Listing of Recipient Agencies in Region F

Attachment 1.....Bid Form

## 1. Introduction

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### 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 F – which includes the counties of: Clinton, Essex, Franklin & St. Lawrence.** The vendor would receive and deliver federally procured foods from frozen, chilled, and dry environments to approximately 60 recipient agencies.

Note: Transportation/Distribution Services **are included** with this solicitation.

### 1.2 Designated Contact

In compliance with the Procurement Lobbying Law, T.J. Karl, Contract Management Specialist 1, 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.

**T.J. Karl, Contract Management Specialist 1**

NYS Office of General Services  
Financial Administration  
Corning Tower, 32nd Floor, ESP  
Albany, New York 12242  
Voice: 1-518-474-5981  
Email: [thomas.karl@ogs.ny.gov](mailto:thomas.karl@ogs.ny.gov)

In the event the designated contact is not available, the **alternate designated contacts** are:

**1<sup>st</sup> Alternate Designated Contact:**

**Diane Robinson, Contract Management Specialist 2**

NYS Office of General Services  
Financial Administration  
Corning Tower, 32nd Floor, ESP  
Albany, New York 12242  
Voice: 1-518-474-5981  
Email: [diane.robinson@ogs.ny.gov](mailto:diane.robinson@ogs.ny.gov)

**2<sup>nd</sup> Alternate Designated Contact:**

**William Macey, Contract Management Specialist 3**

NYS Office of General Services  
Financial Administration  
Corning Tower, 32nd Floor, ESP  
Albany, New York 12242  
Voice: 1-518-474-5981  
Email: [bill.macey@ogs.ny.gov](mailto:bill.macey@ogs.ny.gov)

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

**Anuola Surgick, Compliance Specialist 1**

New York State Office of General Services  
MWBE and Community Relations  
Empire State Plaza, Corning Tower  
Albany, NY 12242  
Voice: 1-518-486-6866  
Fax: 1-518-486-9285  
Email: [anuola.surgick@ogs.ny.gov](mailto:anuola.surgick@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 & Delivery Services in Region F for specified counties	January 23, 2014
Deadline for Submission of Bidder Questions	February 14, 2014
OGS Issues Responses to Written Questions (estimated)	February 25, 2014
Bid Due Date/ Bid Opening Date	March 12, 2014 @ 2:00 pm
Contract Start Date	July 1, 2014

### 1.4 Minimum Bidder Qualifications

- Vendor must be able to provide both Warehousing Services and Distribution (Delivery) Services in the counties listed above for Region F.
- Facility must be licensed for food storage by New York State Department of Agriculture and Markets.
- Facility must meet the following minimum storage area requirements, all located at one site, and be available only for the commodities required by this contract:
  - 7,000 square feet of frozen storage
  - 3,000 square feet of chilled storage; and
  - 10,000 square feet of dry storage.
- The bidder's facility must be located in proximity to the area (counties) to be serviced OR demonstrate prior experience of and ability to provide delivery services to facilities in the area(s) indicated.

## 2. Bid Submission

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### 2.1 IFB Questions and Clarifications

Questions and requests for clarification regarding this IFB 1836 shall only be directed to:

T.J. Karl, Contract Management Specialist 1  
OGS Division of Financial Administration  
32nd Floor, Corning Tower, ESP  
Albany, NY 12242  
Phone: 1-518-474-5981  
Fax: 1-518-486-3651  
e-mail: [thomas.karl@ogs.ny.gov](mailto:thomas.karl@ogs.ny.gov)

Questions and requests for clarification are only accepted via e-mail or in writing. Official answers to questions will be provided via addendum.

Deadline for submission of questions will be as stated in Section 1.3 - Key Events. Any questions received after the due date and time in Section 1.3 - Key Events will not be addressed.

### 2.2 Bid Format and Content

In order for the State to evaluate bids fairly and completely, bidders must 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 **July 1, 2014**. The cover letter must include the full contact information of the person(s) NYS OGS shall contact regarding the bid and must also include the name(s) of principal(s) of the company responsible for this contract, their function, title and number of years of service with company. A bidder representative authorized to make contractual obligations must sign the cover letter. The letter must also state whether or not subcontractors will be used, and the name and address of each proposed subcontractor.
2. **Minimum Qualifications.** Bidders must submit proof of meeting each of the minimum qualifications as listed in section 1.4, including a copy of the license from NYS Ag & Markets as well as the actual number of square feet in each environment available for this contract.
3. **Pricing.** Bidder shall list all pricing on the attached bid form (Attachment1) for this solicitation.
4. All other required completed forms from Appendix B.

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 Bid Preparation

All bids must be completed in ink or machine produced. Bids submitted handwritten in pencil will be disqualified.

### 2.4 Packaging of IFB Response

Please submit **(4) originals** of the **Bid Proposal Form (Attachment 1)**, along with (1) original and (3) copies of all other documents found in Appendix B, as well as any bid addenda.

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: IFB #1836**

**Bid Due Date and Time: Same as indicated in Section 1.3 - Key Events**

**Bid for Warehousing and Distribution Services for Region F - Clinton, Essex, Franklin & St. Lawrence Counties**

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 Instructions for Bid Submission

**Note that these instructions supersede the generic instructions posted on the OGS website bid calendar.**

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

NYS Office of General Services,  
Division of Financial Administration  
Corning Tower, 32nd Floor, Empire State Plaza  
Albany, NY 12242  
Attn: T.J. Karl  
IFB #1836

### **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 and approval 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 NYS OGS Mailroom is NOT sufficient, and that at least historically, one overnight carrier has been known to deliver its packages to the OGS Mailroom. NYS 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 48 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 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 NYS OGS should allow extra time to comply with these procedures. These 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>

## 2.6 Examination of Existing Building and Contract Documents

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.

IFB #1836

Warehousing and Distribution Services

Region F (Clinton, Essex, Franklin and St. Lawrence Counties)

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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.

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 **T.J. Karl, Contract Management Specialist 1, NYS Office of General Services, Financial Administration, 32nd 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.

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

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

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#### 3.1 Issuing Office

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

#### 3.2 Method of Award

OGS intends to award one contract to the lowest responsive and responsible bidder. The lowest bidder shall be determined by the Grand Total Bid as represented on Attachment 1 – Bid Form.

The total bid consists of the following 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 Form).

Upon determination of the lowest responsive and responsible bid, a contract will be delivered to the successful bidder for signature and shall be returned to the issuing office for all necessary State approvals. Upon final approval, a completely executed contract will be delivered to the contractor.

**The Grand Total bid amount of the successful bidder shall be used to establish the contract value. The established contract value 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. Any alterations, qualifiers, etc. will result in rejection.

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**. Recipients may request deliveries twice per month per location. 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 NYS 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 on 07/01/2014 and will be in effect for (5) years through 06/30/2019.

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 NYS OGS' intent to cancel. Any cancellation by NYS 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 NYS 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 5.13 - 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), Northeast Region All Items, 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](http://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. If the contract price is fixed for three years and allows an escalation thereafter, it would be based on the difference between the June 2008 CPI and the June 2009 CPI and become effective September 2009.

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, 32nd Floor, Empire State Plaza, 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, a company invoice will be used. This invoice must contain the Contract ID number (i.e.: OGS01-C000XXX-1140000) and, either in its body or as an attachment, an itemization of work completed during that month. Invoices for payment shall be submitted at the end of each month.

Item A charges 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. (Refer to 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 NYS OGS Business Services Center - Accounts Payable Unit to either address shown below. 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 or vouchers must be submitted for payment to either:

**OFFICE OF GENERAL SERVICES  
BSC / ACCOUNTS PAYABLE  
P. O. BOX 2117, EMPIRE STATE PLAZA STATION  
ALBANY, NEW YORK 12220-0117**

-or-

[accountspayable@ogs.ny.gov](mailto:accountspayable@ogs.ny.gov)

**Also, a copy of the invoice and reports must be forwarded to the Director for the Division of Food Distribution and Warehousing, 29<sup>th</sup> Floor, Corning Tower, Empire State Plaza, 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](http://www.osc.state.ny.us/epay/index.htm), by e-mail at [epunit@osc.state.ny.us](mailto: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 Section 1.3 - Key Events. 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. 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(s) 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" 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 IFB refer to this IFB.

## 4. Scope of Work

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### 4.1 Contractor Service Requirements

- A. The contractor agrees to adhere to all State and Federal regulations in connection with the handling, storage and distribution of any commodities.
- B. The contractor agrees to accept, unload, remove, and place into storage in their facility, shipments of USDA commodities allocated by NYS OGS for distribution to eligible recipient agencies. Incoming USDA loads must be accepted for delivery at minimum, between 7:00 A.M and 2:00 P.M.
- C. USDA foods begin arriving in the second half of August for the school year and April will typically be the last month USDA deliveries will be made. Deliveries to schools will begin in September and typically end in May with light "clean up" deliveries occurring in June. It is not NYS OGS' intention to carry over any product during the summer months.
- D. 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 agrees to physically segregate all USDA foods. The contractor is expected to track all cases received by the pack date or best if used by date. 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.
- E. The contractor agrees to receipt for each load in the USDA web based system within 2 calendar days of receiving the load.
- F. The contractor agrees to place such commodities into dry, chilled or frozen storage environments in accordance with the nature of the product, accepted practice and any instructions forwarded to the contractor by NYS OGS with each advice of shipment. Storage environments should be maintained at the following temperatures: Dry - between 50 °F and 70 °F; Cooler - at or below 40 °F, Freezer - 0 °F. Daily freezer / refrigerator logs must be maintained to ensure product safety. Those commodities requiring refrigeration or frozen storage will be kept under protection of mechanical refrigeration.
- G. The minimum square footage requirement is based in part on the **estimated** annual per case volume of each of the storage environments listed below:
  - Dry - 9,180 cases
  - Frozen - 7,400 cases
  - Cooler - 1,000 cases
- H. The contractor 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 F. Note that the list is subject to change during the term of the contract.

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

- I. 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.
- J. 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.
- K. 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.

## 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, or deterioration, or any other cause during the time when said commodities are stored in its warehouse or subject to the control of the contractor.
- B. Any loss of USDA food must be reported to NYS OGS. The contractor may replace these items with an equal quality product to the recipient agency. Any replacement must be 100% domestic origin, no international substitutions will be allowed. Overages and shortages between physical inventory and book inventory shall be reconciled by the total value of such commodities. Reconciliation shall take place at the annual physical inventory with the contractor providing any documentation of replacement items to assist in the offset process. Any overages continue to be the property of NYS OGS.
- C. The contractor agrees to obtain and provide copies to NYS 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.
- D. The contractor agrees to install and maintain a heat or smoke activated fire alarm system with central station monitoring or a sprinkler system.
- E. 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 NYS OGS for inspection at any time.
- F. 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 NYS 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.
- G. 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.
- H. 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 being awarded.
- I. The freezer temperature shall be maintained at '0' degrees Fahrenheit, while the cooler temperature shall be maintained at 40 degrees Fahrenheit or below for both storage and distribution of foods.

## 4.3 Damages

- A. The contractor shall examine each shipment for possible shortage or damage and shall immediately notify NYS 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 NYS 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 NYS 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 NYS OGS, by telephone, of the condition of such shipment but shall not unload or otherwise handle the same until instructions are received from NYS OGS. Commodities found unfit for human consumption shall be disposed of in accordance with specific instructions to be given in each case by NYS OGS. Contractor shall be responsible for the disposal of any defective product(s) by order of NYS OGS Division of Food Distribution and Warehousing in accordance with accepted procedures.

- B. It is understood and agreed 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/frozen items, and/or
3. Single compartment refrigerated trucks ("0" degrees Fahrenheit) for separate or integrated deliveries of dry items and refrigerated/frozen 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 must 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.

A single delivery can be to multiple buildings within a school district. If a district has three buildings, then they can request two deliveries to each location twice per month. A breakdown of all current locations is attached to this document but may be modified during the contract period.

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 school campus, this will be considered to be one drop for the purposes of billing.**

- C. No case minimum delivery order shall be applied to this contract.
- D. The contract must review all incoming loads on USDA's web based system. 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.
- E. 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 electronically receipt for each shipment utilizing a USDA web based system within two calendar days of receiving the load. Any discrepancies in amounts of commodities received and amounts shown on notices of shipment must be noted in the USDA web based system.
- F. 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.
- G. 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.

- H. 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.
- I. 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 this 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 – General Requirements).

## 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 provide to OGS 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. Reports must provide the following documentation:

- Sales Orders received for the reporting period;
  - Total received by material;
  - Total distributed by material;
  - Ending Inventory by Material.
- List the distribution of Sales Orders to Recipients;
- List the deliveries to Recipients by:

**IFB #1836**

**Warehousing and Distribution Services**

**Region F (Clinton, Essex, Franklin and St. Lawrence Counties)**

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- Recipient;
- Delivered by stop / location.

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

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### 5.1 Appendix A / Order of Precedence

Appendix A — Standard Clauses for New York State Contracts, dated November 2013, 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
3. OGS Invitation For Bid Number 1836 (This Document) Including any Addenda
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://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.asp> Contractor Insurance Requirements

### 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, 32nd 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 \$2,000,000 each accident**. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
- c) 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.
- d) WORKERS' COMPENSATION / DISABILITY INSURANCE:

Prior to any contract resulting from this RFP becoming effective, Contractor must submit proof that they have the workers' compensation and disability benefits coverage required by the New York State Workers' Compensation Law, or proof that they are legally exempt from obtaining such coverage. Proof of compliance must be demonstrated in accordance with the requirements set forth by the New York State Workers' Compensation Board (An instruction manual clarifying the Workers' Compensation Law requirements is available to download at the Workers' Compensation Board's website, [www.wcb.ny.gov](http://www.wcb.ny.gov). Once you are on the website, click on *Employers/Businesses*, then *Business Permits/Licenses/Contracts*; from there, click on *Instruction Manual for Businesses Obtaining Permits/Licenses/Contracts*.) Contractor shall notify the Office of General Services, Financial Administration Contracts Unit, at least thirty (30) days prior to material change or cancellation of such coverage.

If employees will be working on, near or over navigable waters, US Longshore and Harbor Workers Compensation Act endorsement must be included.

**All forms must name the Office of General Services – Financial Administration, 32nd Floor, Mayor Erastus Corning 2<sup>nd</sup> 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 M/WBE and EEO Requirements

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

#### NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, OGS recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women 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" ("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 versus 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. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

#### Business Participation Opportunities for MWBEs

For purposes of this solicitation, OGS hereby establishes an overall goal of 0% for MWBE participation, 0% for Minority-Owned Business Enterprises ("MBE") participation and 0% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that OGS may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how OGS will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, 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 OGS may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on Form #MWBE 100 with the bid or proposal. The Utilization Plan shall list the MWBEs the Contractor intends to use to perform the State contract and a description of the Contract scope of work that the Contractor intends to structure to meet the goals on the State contract, and the estimated or, if known, actual dollar amounts to be paid to and

performance dates of each component of a State Contract that the Contractor intends to be performed by a NYS Certified minority or woman-owned business. Any modifications or changes to the agreed participation by NYS Certified MWBEs set forth in the Utilization Plan submitted with the bid or proposal, after the Contract award and during the term of the Contract, must be reported on a revised MWBE Utilization Plan and submitted to OGS.

- B. OGS will review the submitted MWBE Utilization Plan and advise the Bidder of OGS' acceptance or issue a notice of deficiency within 20 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to OGS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OGS to be inadequate, OGS shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form #BDC 333. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. OGS may disqualify a Bidder as being non-responsive under the following circumstances:
  - a) If a Bidder fails to submit a MWBE Utilization Plan;
  - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
  - c) If a Bidder fails to submit a request for waiver; or
  - d) If OGS determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to OGS, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's Monthly M/WBE Contractor Compliance & Payment Report on Form MWBE 102 to OGS by the 10<sup>th</sup> day of the month during the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

#### **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 the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan on 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 identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), 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, 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.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

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

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## 5.6 Freedom of Information Law / Trade Secrets

During the evaluation process, the content of each bid will be held in confidence and details of any 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 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 excepted 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 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 successful Bidder 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 the equipment and materials provided for the work consistent with applicable safety and health codes.
- The Office of General Services reserves the right to reject and bar from the facility 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 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 solicitation and the contract resulting from the solicitation. When bidding, any known / planned use of subcontractors must be disclosed in detail with bid submission. If subcontractors are to be used, it shall be understood that the bid price includes the cost of the subcontractor and no additional markups will be allowed. The total of all Subcontractor work during the term of the Contract, exclusive of M/WBE subcontracted work as established in the approved utilization plan, shall not exceed 10% of the total contract value.

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/subcontractor's employee(s) who carry out any of the provisions of any contract resulting from this IFB.

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 the OGS Division of Food Distribution and Warehousing or their designee, Governor Nelson A. Rockefeller Empire State Plaza, 29<sup>th</sup> 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 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 Solicitation.
2. Disqualify a Proposer from receiving the award if the Proposer, or anyone in the Proposer'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 Proposer.
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. 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 Solicitation.
10. Make an award under this Solicitation in whole or in part.

11. 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.

**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. This 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 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 or 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://www1.osc.state.ny.us/transparency/contracts/contractsearch.cfm>

## **5.13 Termination**

### **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 bid'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 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.

### **Procurement Lobbying Termination**

The Office of General Services reserves the right to terminate this contract in the event it is found that the certification filed by the Offeror 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 Offeror in accordance with the written notification terms of this contract.

## **5.14 NYS Vendor Responsibility Questionnaire For-Profit Business Entity**

OGS conducts a review of prospective contractors ("Bidders") to provide reasonable assurances that the Bidder is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter "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.

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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](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](http://www.osc.state.ny.us/vendrep/forms_vendor.htm).

In order to assist the State in determining the responsibility of the Bidder prior to Contract Award, the Bidder must 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 awarded a Contract the following shall apply:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

## 5.15 Ethics Compliance

All bidders/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.

## 5.16 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.

## 5.17 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.

## 5.18 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.

## 5.19 Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should NYS OGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, NYS OGS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then NYS OGS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

NYS OGS reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## 5.20 Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	<b>Page</b>
<b>1. Executory Clause</b>	<b>3</b>
<b>2. Non-Assignment Clause</b>	<b>3</b>
<b>3. Comptroller's Approval</b>	<b>3</b>
<b>4. Workers' Compensation Benefits</b>	<b>3</b>
<b>5. Non-Discrimination Requirements</b>	<b>3</b>
<b>6. Wage and Hours Provisions</b>	<b>3</b>
<b>7. Non-Collusive Bidding Certification</b>	<b>4</b>
<b>8. International Boycott Prohibition</b>	<b>4</b>
<b>9. Set-Off Rights</b>	<b>4</b>
<b>10. Records</b>	<b>4</b>
<b>11. Identifying Information and Privacy Notification</b>	<b>4</b>
<b>12. Equal Employment Opportunities For Minorities and Women</b>	<b>4-5</b>
<b>13. Conflicting Terms</b>	<b>5</b>
<b>14. Governing Law</b>	<b>5</b>
<b>15. Late Payment</b>	<b>5</b>
<b>16. No Arbitration</b>	<b>5</b>
<b>17. Service of Process</b>	<b>5</b>
<b>18. Prohibition on Purchase of Tropical Hardwoods</b>	<b>5-6</b>
<b>19. MacBride Fair Employment Principles</b>	<b>6</b>
<b>20. Omnibus Procurement Act of 1992</b>	<b>6</b>
<b>21. Reciprocity and Sanctions Provisions</b>	<b>6</b>
<b>22. Compliance with New York State Information Security Breach and Notification Act</b>	<b>6</b>
<b>23. Compliance with Consultant Disclosure Law</b>	<b>6</b>
<b>24. Procurement Lobbying</b>	<b>7</b>
<b>25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors</b>	<b>7</b>

## 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, licenser, 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). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**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 (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim 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  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<http://esd.ny.gov/MWBE/directorySearch.html>

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 Forms**

**Invitation for Bid No. 1836**

## Table of Contents

<b>CONTRACTOR INFORMATION.....</b>	<b>2</b>
<b>INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT.....</b>	<b>4</b>
<b>OFFERER CERTIFICATION: .....</b>	<b>9</b>
<b>NYS DEPARTMENT OF TAXATION AND FINANCE .....</b>	<b>10</b>
<b>CONTRACTOR CERTIFICATION (ST-220-TD).....</b>	<b>10</b>
<b>CONTRACTOR CERTIFICATION TO COVERED AGENCY.....</b>	<b>10</b>
<b>(ST-220-CA).....</b>	<b>10</b>
<b>MACBRIDE FAIR EMPLOYMENT PRINCIPLES.....</b>	<b>17</b>
<b>NON-COLLUSIVE BIDDING CERTIFICATION .....</b>	<b>17</b>



Do you understand and is your firm capable of meeting the insurance requirements to enter into a contract with New York State?

Circle One: Yes No

Will New York State Businesses be used in the performance of this contract?

Circle One: Yes No

If yes, identify New York State Business(es) that will be used; (Attach identifying information).

Does your proposal meet all the requirements of this solicitation? Circle One: Yes No

**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?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, please answer the following question:

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?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, please provide details regarding the finding of non-responsibility:

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?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, please provide details:

Governmental Entity:

\_\_\_\_\_

Date of Termination or Withholding of Contract:

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

## 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:

**[Check One]**

**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 the \_\_\_\_\_ 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.**

**Offerer’s Affirmation of Understanding of and Agreement pursuant to New York State Finance Law §139-j (3) and §139-j (6) (b)**

New York State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer’s understanding of and agreement to comply with the Governmental Entity’s procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by New York State Finance Law §139-j (3) and §139-j (6) (b).

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **Offerer Disclosure of Prior Non-Responsibility Determinations**

### **Background:**

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

### **Instructions:**

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

# Offerer Disclosure of Prior Non-Responsibility Determinations

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

\_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_

Name and Title of Person Submitting this Form:

\_\_\_\_\_  
\_\_\_\_\_

Contract Procurement Number: \_\_\_\_

Date: \_\_\_\_

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

No \_ \_ Yes \_ \_

If yes, please answer the next questions:

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

No \_ \_ Yes \_ \_

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

No \_ \_ Yes \_ \_

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

Governmental Entity:

\_\_\_\_\_

Date of Finding of Non-responsibility:

\_\_\_\_\_

Basis of Finding of Non-Responsibility:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Add additional pages as necessary)



**Offerer’s Certification of Compliance  
with State Finance Law §139-k(5)**

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.

Offerer Certification:

*I certify that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.*

By: \_\_\_\_\_ Date: \_\_\_\_ \_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

**Procurement Lobbying Termination**

**The Office of General Services reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer 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 Offerer in accordance with the written notification terms of this contract.**

**NYS 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. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

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](http://www.nystax.gov). Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

**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](http://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. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

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)









**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) 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) 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; an) 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)

**BIDDER IS REQUIRED TO SIGN BOTH SECTIONS ON THIS PAGE**

# Appendix C

## Sample Contract

### Solicitation No. 1836

SAMPLE

**STATE OF NEW YORK**  
**OFFICE OF GENERAL SERVICES**  
**AGREEMENT FOR**  
**WAREHOUSING & DISTRIBUTION (DELIVERY) SERVICES**  
**OF USDA DONATED FOOD COMMODITIES**  
**REGION F - COUNTIES OF CLINTON, ESSEX, FRANKLIN & ST.**  
**LAWRENCE**  
**WITH**  
**(CONTRACTOR)**  
**CONTRACT # OGS01-C00XXXX-1140000**

**THIS AGREEMENT**, made this \_\_\_\_ day of \_\_\_\_\_, 2014 by and between the People of the State of New York, acting by and through the Commissioner of General Services, whose office is on the 41st Floor, Corning Tower Building, the Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242 (hereinafter "Commissioner", "OGS" or "State"), and (Company Name), (hereinafter "Contractor"), with an office at \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, the OGS is responsible for the Warehousing & Distribution (Delivery) Services of USDA Donated Food Commodities in Counties of Clinton, Essex, Franklin & St. Lawrence (hereinafter "Region F") and in fulfilling its responsibility deems it necessary to obtain Warehousing & Distribution (Delivery) Services of USDA Donated Food Commodities therefore, and

**WHEREAS**, OGS has determined after having solicited proposals from proposers willing to supply these services, that the Contractor submitted the proposal affording the State the best value for such services and that the Contractor possesses the necessary capacity, experience and expertise for provision of Warehousing & Distribution (Delivery) Services of USDA Donated Food Commodities, and that Contractor is ready, willing and able to perform such services on the terms hereinafter set forth.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, the parties do hereby agree as follows:

**1. CONSIDERATION**

OGS shall pay the Contractor for all Warehousing & Distribution (Delivery) Services of USDA Donated Food Commodities fees and other fees and expenses in accordance with the amounts and rates put forth in the Contractor's proposal attached hereto as Appendix "C", which Appendix C is hereby incorporated by reference and made a part hereof as fully as if set forth as length herein. This contract will be established with a not to exceed value of \$1,067,552.00. Services performed beyond this amount will not be compensated.

## **2. TERM**

This Agreement shall commence upon \_\_\_\_\_ and will be in effect for five (5) years, unless sooner terminated as herein specified.

## **3. SERVICES**

The Contractor agrees to perform this Agreement and to furnish the services, labor and materials required in connection therewith in accordance with all the specifications, conditions, covenants and representations contained in the Invitation for Bids No. 1836, which is annexed as Appendix "B" hereto, and the Contractor's proposal, annexed as Appendix "C" hereto, except as such Appendices B and C have been revised by the terms hereof. Appendix B is hereby incorporated by reference and made a part hereof with the same force and effect as if set forth at length herein.

## **4. TERMINATION**

This Agreement may be terminated in accordance with the termination provisions set forth in the solicitation attached hereto as Appendix B hereof.

### **A) Termination**

The Office of General Services may, upon thirty (30) days notice, terminate the contract resulting from this solicitation 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 solicitation 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 solicitation, 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 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.

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. RECORDS**

The Contractor will maintain accurate records and accounts of services performed and monies expended under this Agreement. Such records will be maintained for six (6) years following the close of the State fiscal year to which they pertain and will be made available to representatives of OGS or the New York State Comptroller, as may be necessary for auditing purposes, upon request.

**6. TAXES**

The Contractor will be responsible for all applicable Federal, State and Local taxes and all FICA contributions.

**7. INDEPENDENT CONTRACTOR**

It is understood and agreed that the legal status of the Contractor, its subcontractors, agents, officers and employees is that of an independent contractor and in no manner shall they be deemed employees or agents of the State of New York and, therefore, are not entitled to any of the benefits associated with such employment or designation.

**8. APPENDIX A**

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

**9. ASSIGNMENT**

Contractor agrees that it will not assign this Agreement, or any interest therein without the prior written consent of the Commissioner of General Services.

**10. LAW**

This Agreement shall be governed by the laws of the State of New York.

**11. CONDITIONS PRECEDENT**

This Agreement shall not be deemed executed, valid or binding unless and until approved in writing by the Attorney General and the State Comptroller.

**12. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by both parties hereto.

**13. EXECUTORY CLAUSE**

This Agreement shall be deemed executory only to the extent of money available to the State for performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for purposes thereof.

**14. INCONSISTENCIES**

In the event of any discrepancy, disagreement or ambiguity between this contract agreement and Appendix B "Solicitation" and/or Appendix C "Proposal", 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) Appendix B – Solicitation #1836 including Addenda
- (iv) Appendix C – Contractor's Proposal

The parties understand and agree that any and all deviations or exceptions taken by Contractor to the State's Request for Proposal are hereby withdrawn except only to the extent that such exceptions or deviations have been explicitly incorporated into this contract agreement.

**15. FORCE MAJEURE**

Neither party hereto will be liable for losses, defaults, or damages under this Agreement 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 Agreement, 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.

**16. ASSIGNMENT BY STATE**

The State agrees not to assign this Agreement without prior notice to and reasonable consent of the Contractor provided, however, that this Agreement may be assigned without such consent to another agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the pertinent functions of OGS as an agency are transferred to a successor agency or subdivision of the State.

**17. NOTICES**

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Agreement shall be in writing and shall be validly given when mailed by registered or certified mail, overnight carrier or hand delivered, (i) if to the State, addressed to the State at its address set forth above, and (ii) if to Contractor, addressed to Contractor at its address set forth above. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Agreement by giving fifteen (15) days written notice to the other party. The parties agree to mutually designate individuals as their respective representatives for the purposes of this Agreement.

**18. CAPTIONS**

The captions contained in this Agreement are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

**19. SEVERABILITY**

In the event that any one or more of the provisions of this Agreement shall for any reason be declared unenforceable under the laws or regulations in force, such provision will not have any effect on the validity of the remainder of this Agreement, which shall then be construed as if such unenforceable provision had never been written or was never contained in this Agreement.

**20. IRAN DIVESTMENT ACT**

By entering into this Contract, Contractor certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before OGS may approve a request for Assignment of Contract.

During the term of the Contract, should OGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OGS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then OGS shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

OGS reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

## **21. INFORMATION SECURITY BREACH**

In accordance with the Information and Security Breach Notification Act (ISBNA) (Chapter 442 of the Laws of 2005, as amended by Chapter 491 of the Laws of 2005), a Contractor with OGS shall be responsible for all applicable provisions of the ISBNA and the following terms herein with respect to any private information (as defined in the ISBNA) received by or on behalf of OGS under this Agreement.

- Contractor shall supply OGS with a copy of its notification policy, which shall be modified to be in compliance with this provision, as well as OGS's notification policy.
- Contractor must encrypt any database fields and backup tapes that contain private data elements, as set forth in the ISBNA.
- Contractor must ensure that private data elements are encrypted in transit to / from their systems.
- In general, contractor must ensure that private data elements are not displayed to users on computer screens or in printed reports; however, specific users who are authorized to view the private data elements and who have been properly authenticated may view/receive such data.
- Contractor must monitor for breaches of security to any of its systems that store or process private data owned by OGS.
- Contractor shall take all steps as set forth in ISBNA to ensure private information shall not be released without authorization from OGS.
- In the event a security breach occurs as defined by ISBNA Contractor shall immediately notify OGS and commence an investigation in cooperation with OGS to determine the scope of the breach.

- Contractor shall also take immediate and necessary steps needed to restore the information security system to prevent further breaches.
- Contractor shall immediately notify OGS following the discovery that OGS's system security has been breached.
- Unless the Contractor is otherwise instructed, Contractor is to first seek consultation and receive authorization from OGS prior to notifying the individuals whose personal identity information was compromised by the breach of security, the State Office of Cyber Security and Critical Infrastructure Coordination, the State Consumer Protection Board, the Attorney General's Office or any consuming reporting agencies of a breach of the information security system or concerning any determination to delay notification for law enforcement investigations.
- Contractor shall be responsible for providing all notices required by the ISBNA and for all costs associated with providing said notices.
- This policy and procedure shall not impair the ability of the Attorney General to bring an action against the Contractor to enforce all provisions of the ISBNA or limit the Contractor's liability for any violations of the ISBNA.

## **22. MWBE/EEO**

### **I. General Provisions**

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for New York State Certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

## **II. Contract Goals**

- A. 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.

## **III. Equal Employment Opportunity (EEO)**

- A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. Contractor shall comply with the following provisions of Article 15-A:
  - 1. Contractor and Subcontractors shall undertake or continue existing EEO 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, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  - 2. The Contractor shall certify and affirm that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof is Contractor's equal employment opportunity policy.
  - 3. The Contractor's EEO policy statement shall include the following language:
    - a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

- b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
  - c) 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.
  - d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 3 and Paragraph "E" of this Section II, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- C. To ensure compliance with this Section, the Contractor shall submit Form EEO 100- Staffing Plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their contract.
- D. Form EEO 102 - Workforce Employment Utilization Report ("Workforce Report")  
(One of the following 2 paragraphs will be included in the final contract.)
- \*Contractor agrees it is responsible for updating and providing notice to the OGS of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
- \*Contractor and OGS agree that Contractor is unable to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce and that the information provided on the previously submitted Staffing Plan is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

- E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, 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.

### **23. CONTRACTOR RESPONSIBILITY**

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

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.

**CONTRACT NO. OGS01-C00XXXX-1140000**

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

**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."

**(Company Name)**

**THE PEOPLE OF THE STATE OF NEW YORK**

By: \_\_\_\_\_ By: \_\_\_\_\_  
Name: Name:  
Title: Title:  
Federal I.D. No.: Date:  
Date:

**APPROVED AS TO FORM**

Eric Schneiderman  
Attorney General

**APPROVED**

Thomas P. DiNapoli  
State Comptroller

**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:

**[Check One]**

**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 the \_\_\_\_\_ 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.** \_\_\_\_\_

**State of:** \_\_\_\_\_

## **Appendix A**

### **STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

[Text not included at this time because it is included elsewhere in the solicitation. Will be added when contract is finalized]

# Appendix B

## Invitation for Bids

SAMPLE

# Appendix C

## Contractor's Proposal

SAMPLE

# **Appendix- D**

## ***List of Recipient Agencies***

**New York State Office of General Services**

**For**

**Warehousing and Distribution  
In Region F**

**Invitation for Bid Number- 1836**

No.	Name	Contact
F005	Brushton-Moira Central School	Mary McKane - FSD
F004	Clinton-Essex-CVES	Charlene O'Connor
F006	Canton Central School	Bluejay Fenlong - FSD
F008	Tupper Lake Central School	Bob LaMare - FSD
F009	Chateaugay Central School	Doreen Roach
F010	Colton-Pierrepont Central School	Artie Frego - FSD
F011	Long Lake Central School	Victoria Snide - Business Manager
F012	Crown Point Central School	Debra Manley/Bette Pertak
F014	Elizabethtown-Lewis Central School	Kendra Pulsifer - Cafeteria Mgr.
F015	Northern Adirondack Central School	Lisa A Carter - FSD
F016	Indian Lake Central School	Julia Gundel
F017	Salmon River Central School	Mary Ellen McKane
F019	Gouverneur Central School	Christine Bristol - SLM
F020	Hammond Central School	Tammy Gallagher - FSD
F021	Hermon Dekalb Central School	Thomas Fetcie - FSD
F022	Heuvelton Central School	Steve Adams FSD
F023	Keene Central School	Julie Holbrook - FSD
F024	Ausable Valley Central School	Michelle Martineau - FSD
F025	Lake Placid Central School	Susan Rossi - FSD
F026	Lisbon Central School	Rick Anderson - FSD
F028	Madrid-Waddington Ctl School	Stephen Adams - FSD
F029	Malone Central School	Richard Wilkins - FSD
F030	Northeastern Clinton CS	Margaret McComb - FSD
F032	Moriah Central School	Mary Supernault - FSD
F034	Seton Catholic Central	Susan Bushey - Cafeteria Mgr.
F037	Newcomb Central School	Tina Helms - FSD
F039	Norwood-Norfolk Central School	Artie Frego - FSD
F040	Ogdensburg Public Schools	Brian Mitchell - Cook Mgr.
F042	Minerva Central School	Rosalie Frettoloso
F043	Parishville-Hopkinton Ctl Sch	Fran Hazelton - FSD
F045	Peru Central School	Jeannine Kerr - FSD
F046	Plattsburgh City School Dist	Charlene O'Connor - SLM
F049	Seton Academy	Tammy Arsenault - FSD
F050	Potsdam Central School	Dave Gravlin
F051	Edwards-Knox Central Sch Dist	Kathleen Whitmarsh - FSD
F052	Saint Regis Falls Central School	Scott Spillane - FSD
F053	Saranac Central School	Kathy Dupraw
F054	St. Lawrence-Lewis BOCES	Gail Jenkins
F056	Saranac Lake Central School	Ruth Pino
F057	Schroon Lake Central School	Julie Holbrook - FSD
F058	Clifton Fine Central School	Dora Hanley - Cafeteria Mgr.
F062	Westport Central School	Tricia Fields - FSD
F063	Willsboro Central School Dist.	Jane Casamento - Cafeteria Mgr.
F064	Brasher Falls Central School	Cathy Tharrett - Cook Manager
F065	Beekmantown Central School	Roxann Barnes - FSD

F066	Massena Central School	Peter Bertrand - FSD
F070	St.Mary's School	Marianne Jadlos - FSD
F074	Chazy Union Free School	John Fairchild - FSD
F078	St.James School	Sandra Maloy - FSD
F080	Morristown Central School Dist	George Mullikin
F082	Trinity Catholic School	Michele Chartrand - Cafeteria Mgr.
F085	The Holy Name of Jesus Academy, Inc.	Sister Mary Jordan
F303	Saint Lawrence County Jail	Jennifer Parker - FSD
F304	National Sports Academy	Lisa Rissberger - FSD
F306	Mountain Lake Children's Residence	Elaine Amato - FSD
F406	SUNY Potsdam Child Care Ctr	Lori Moulton - FSD
F409	Potsdam Building Blocks	Marlene Pickering - Director

Phone No.	E-Mail
(518) 529-7324 x	MMCKANE@MAIL.FEHB.ORG
(518) 561-7500 x5093	coconnor@plattscsd.org
(315) 386-8561 x410	efenlong@ccsdk12.org
(518) 359-3322 x1019	ROBERTL@TUPPERLAKECSD.NET
(518) 497-6611 Ext. 2018	Doreen.Roach@compass-usa.com
(315) 262-2100	afrego@sllboces.org
(518) 624-3721	vsnide@longlakecsd.org
(518) 597-3285	BPERTAK@CPCSTEAM.ORG
(518) 873-6371 Ext. 315	KBROWN@ELCSD.ORG
(518) 594-3962 x3149	CAFE@NACS1.ORG
(518) 648-5024	GUNDELJ@ILCSD.ORG
(518) 358-6682	mmckane@mail.fehb.org
(315) 287-1690	bristol.christine@gcsk12.org
(315) 324-5931	TAMMYGALLAGHER@NETSCAPE.NET
(315) 347-3442	TFETCIE@HDCSK12.ORG
(315) 344-2414x3418	cafe@HEUVELTON.K12.NY.US
(518) 576-4555	KCSCAFE@YAHOO.COM
(518) 834-2805	MMARTINEAU@AVCSK12.ORG
(518) 523-2475 x 4171	kodankk@roadrunner.com
(315) 393-4951	ANDERSONR@LISBON.K12.NY.US
(315) 322-5746 x230	SADAMS@MWCSK12.ORG
(518) 483-7807 x 7405	RWILKINS@MALONECSD.ORG
(518) 298-7894	PMccomb@nccscougar.org
(518) 546-3301 x302	MSUPERNA@MUM.NERIC.ORG
(518) 561-4031 x113	SBUSHEY@SETONCATHOLIC.NET
(518) 582-3341	THELMS@NEWCOMBCSD.ORG
(315) 353-6631 x3533	AFREGO@SLLBOCES.ORG
(315) 393-0900 x251	BMITCHELL@OGDENSBURGK12.ORG
(518) 251-2000	FRETTOLOSOR@MINERVASD.ORG
(315) 265-4642 x	DGRAVLIN@SLLBOCES.ORG
(518) 643-6026	JKERR@PERUCSD.ORG
(518) 561-7500 x5093	COCONNOR@PLATTSCSD.ORG
(518) 563-6330	ARSENAULTS1988@YAHOO.COM
(315) 265-2000 x472	DGRAVLIN@POTSDAM.K12.NY.US
(315) 562-8130 x 1507	KWHITMARSH@EKCSK12.ORG
(518) 856-9421	SPILLANE@MAIL.FEHB.ORG
(518) 565-5705	kdupraw@saranac.org
(315) 353-2293x20100	GKJENKINS@SLLBOCES.ORG
(518) 897-1462	PINORUT@SLCS.ORG
(518) 532-7164 x19	jholbrook@SchroonSchool.org
(315) 848-3333 x147	DHANLEY@CLIFTONFINE.ORG
(518) 962-8244	fieldst@westportcs.org
(518) 963-4456 x229	JCASAMENTO@WILLSBOROCSD.ORG
(315) 389-5131	mcline@bfcsd.org
(518) 563-8685	BARNES.ROXANN@BCSDK12.ORG

(315) 764-3700 ext 3024	pbertrand@mcs.k12.ny.us
(315) 386-3572	STMARYSC@TWCNY.RR.COM
(518) 846-7135	jfairchild@CHAZY.ORG
(315) 287-0130	kitchen@stjamesk-6.org
(315) 375-8814 x21002	gmullikin@mcsk12.org
(315) 764-0012	TCSTERRY@TWCNY.RR.COM
315-769-6030	theholynameofjesusacademy@gmail.com
(315) 379-2451	jparker@co.st-lawrence.ny.us
(518) 523-3460 x21	lrissberger@nationalsportsacademy.com
(518) 523-4300 x110	elaine_amato@mountainlakeacademy.org
(315) 267-2391	moultolj@POTSDAM.EDU
(315) 265-8260	BUILDING_BLOCKS_DAY_CARE@YAHOO.COM

IFB #1836  
 Warehousing and Distribution Services  
 Region F (Clinton, Essex, Franklin and St. Lawrence Counties)

**ATTACHMENT 1**

NYS Office of General Services  
 Financial Administration  
 32nd FL - Corning Tower  
 Empire State Plaza  
 Albany, NY 12242 **IFB-1836**

**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 F – for the Counties of Clinton, Essex, Franklin and St. Lawrence 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	250	X	\$_____/case	X	10	= \$_____
2) 50 to 99	250	X	\$_____/case	X	10	= \$_____
3) 100 to 149	250	X	\$_____/case	X	10	= \$_____
4) 150 to 199	500	X	\$_____/case	X	10	= \$_____
5) 200+ cases	<u>750</u>	X	\$_____/case	X	10	= \$_____
Total est. # of cases /mo = 2,000						
<b>A6) SUBTOTAL of A1 through A5</b>						<b>= \$_____</b>

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

1) Estimated 200 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



DIVISION OF FINANCIAL ADMINISTRATION

**ADDENDUM No. 1**

**Invitation for Bids # 1836**

Date: February 11, 2014

Subject: Delivery Location Addresses & Bid Due Date Change

Title: USDA Food Warehousing and Distribution in Region F

Proposal Due Date: **Wednesday, March 19, 2014 @ 2:00 PM**

Address Bids to: T.J. Karl  
Division of Financial Administration  
NYS Office of General Services  
32nd Floor, Corning Tower  
Empire State Plaza  
Albany, New York 12242  
IFB No. 1836 – USDA Food Warehousing and Distribution

**To Prospective Proposers:** This addendum is to provide the following: addresses of delivery locations and new bid due date regarding IFB #1836:

- Bid due date has been moved to March 19, 2014.
- Please see the attached spreadsheet (Attachment 1) listing school name, address, contact name, phone number and e-mail address.

All other terms and conditions remain unchanged.

If submitting a proposal, this Addendum #1 for IFB #1836 must contain an original signature, be dated, attached to, and made a part of your proposal.

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

Address (include City, State, Zip)\_\_\_\_\_

Bidders Name (please print)\_\_\_\_\_

Title\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

**ADDENDUM 1**

**ATTACHMENT 1**

**IFB #1836**

School Code	School Name	FSD	Building 1 Name	Building 1 Address, City, Zip	Building 1 Contact Name	Building 1 Telephone
F004	Clinton-Essex-CVES	Charlene O'Connor	Plattsburgh High School	1 Clifford Drive, Plattsburgh, NY 12901	Charlene O'Connor	(518) 561-7500
F005	Brushton-Moira Central School	Mary Ellen McKane/Scott Spillane	Brushton-Moira Central	758 County Route 7, Brushton, NY 12916	Mary Ellen McKane/ Scott Spillane	(518) 529-7342 ext 1208
F006	Canton Central School	Blue Jay Fenlong	H.C. Williams High School	99 State Street, Canton, NY 13617	Blue Jay Fenlong	(315) 386-8561 ext 5410
F008	Tupper Lake Central School	Bob LaMare	L.P. Quinn Elementary School	294 Hosley Ave, Tupper Lake, NY 12986	Bob LaMare	(518) 359-3322 ext 1019
F009	Chateaugay Central Schools	Doreen Roach	Chateaugay Central Schools	42 River Street, PO Box 904, Chateaugay, NY 12920	Doreen Roach	(518) 497-6611 ext 2018
F010	Colton-Pierrepont Central School	Arlie Frego	CPCS	4924 SH 56, Colton, NY 13625	Nora Buckley - Site Manager	(315) 262-2100 ext 130
F011	Long Lake Central School	Victoria Snide	Long Lake Central School	20 School Lane, Long Lake, NY 12847	Karl Geiger	(518) 624-2221 ext 101
F012	Crown Point Central School	Debra Manley	Crown Point Central School	2758 Main Street, Crown Point, NY 12928	Deborah Manley	(518) 593-9285
F014	Elizabethtown-Lewis Central School	Alicia Slattery	Elizabethtown-Lewis Central School	7530 Court Street, Elizabethtown, NY 12932	Alicia Slattery	(518) 873-6371 ext. 315
F015	Northern Adirondack Central School	Lisa A Carler	Northern Adirondack Middle/High School	PO Box 164, 5586 Rt 11, Ellenburg Depot, NY 12935	Lisa Carler	(518) 594-2962 ext 3020
F016	Indian Lake Central School	Julia Gundel	Indian Lake Central School	6345 NYS Route 30, Indian Lake, NY 12842	Julia Gundel	(518) 648-5024
F017	Salmon River Central School	Mary Ellen McKane	Salmon River Central	637 County Route 1, Ft. Covington, NY 12937	Mary Ellen McKane	(518) 358-6682
F017	Salmon River Central School	Mary Ellen McKane	St. Regis Mohawk	385 Church Street, Hogsburg, NY 13655	Barb Derouchie	(315) 287-1690
F019	Gouverneur Central School	Christine Bristol	Eastside Elementary	111 Gleason Street, Gouverneur, NY 13642	Christine Bristol	(315) 287-1690
F020	Hammond Central School	Tammy Gallagher	Hammond Central School	51 S. Main Street, Hammond, NY 13646	Tammy Gallagher	(315) 324-5931 ext 812
F021	Hermon Dekalb Central School	Thomas Felcie	Hermon Dekalb Central School	709 East Dekalb Road, Dekalb Junction, NY 13630	Thomas Felcie	(315) 347-3442
F022	Heuvelton CSD	Stephen Adams	Heuvelton CSD	87 Washington Street, Heuvelton, NY 13654	Stephen Adams	(315) 344-2414 ext 3418
F023	Keene Central School	Julie Holbrook	Keene Central School	33 Market Street, Keene Valley, NY 12943	Julie Holbrook	(518) 576-9627
F024	Ausable Valley Central School	Michelle Martineau	AVCS Middle / High School	1490 Rt 9N, Clintonville, NY 12924	Michelle Martineau	(518) 834-2805
F024	Ausable Valley Central School	Michelle Martineau	Keesville Elementary	1825 Route 22, Keeseville, NY 12944	Marilyn Plishka	(518) 834-2852
F024	Ausable Valley Central School	Michelle Martineau	Ausable Forks Elementary	28 West Church St., Ausable Forks, NY 12912	Marsha Buskey	(518) 647-5599
F025	Lake Placid Central School	Susan Rossi	Lake Placid Middle/High School	50 Cummings Rd, Lake Placid, NY 12946	Susan Rossi	(518) 578-5987
F026	Lisbon Central School	Rick Anderson	Lisbon Central School	6866 County Route 10, Lisbon, NY 13658	Rick Anderson	(518) 398-4951 ext 1108
F028	Madrid-Waddington CSD	Stephen Adams	Madrid-Waddington CSD	2882 St Hwy 345, Madrid, NY 13660	Stephen Adams	(315) 322-5746 ext 230
F029	Malone Central School	Rick Wilkins	Franklin Academy	42 Huskie Lane, Malone, NY 12953	Rick Wilkins	(518) 486-7807 ext 7405
F030	Northeastern Clinton CS	Margaret McComb	Northeastern Clinton	103 Rte 276, Champlain, NY 12919	Peggy McComb	(518) 298-7894
F032	Moriah Central School	Mary Supernault	Moriah Central School	39 Viking Lane, Port Henry, NY 12974	Mary Supernault	(518) 546-3301 ext 302
F034	Seton Catholic Central	Susan Bushey	Seton Catholic Central	206 New York Rd., Plattsburgh, NY 12903	Susan Bushey	(518) 561-4031 ext 121
F037	Newcomb Central School	Tina Helms	Newcomb Central School	Route 28N, Newcomb, NY 12852	Sandy Turcotte	(518) 582-5899
F039	Norwood-Norfolk Central School	Arlie Frego	Norwood Norfolk Central School	7852 SH 56, Norwood, NY 13668	Patty Penny Cutler - Manager	(518) 353-6631 ext 3521
F040	Ogdensburg Public Schools	Brian Mitchell	Ogdensburg Free Academy	1100 State Street, Ogdensburg, NY 13669	Brian Mitchell	(315) 393-0900
F042	Minerva Central School	Terri Palmer	Minerva Central School	1466 County Route 29, Olmstedville, NY 12857	Terri Palmer	(518) 251-2000
F043	Parishville-Hopkinton Central School	David Gravin	Parishville-Hopkinton Central School	12 County Route 47, Parishville, NY	David Gravin / Chris Carling	(315) 265-2000 ext 472/473
F045	Peru Central School	Jeannine Kerr	Peru Secondary School	17 School Street, Peru, NY 12972	Jeannine Kerr	(518) 643-6026
F045	Peru Central School	Jeannine Kerr	Peru Elementary School	116 Pleasant Street, Peru, NY 12972	Jeannine Kerr	(518) 643-6026
F046	Plattsburgh CSD	Charlene O'Connor	Plattsburgh High School	1 Clifford Drive, Plattsburgh, NY 12901	Charlene O'Connor	(518) 561-7500
F049	Seton Academy	Tammy Arsenault	Seton Academy	23 St. Charles Street, Plattsburgh, NY 12901	Tammy Arsenault	(518) 563-6330
F050	Potsdam Central School	David Gravin	AAK Middle School	54 Lawrence Ave., Potsdam, NY 13676	David Gravin	(315) 265-2000 ext 472/473
F051	Edwards-Knox Central School	Kathleen Whitmarsh	Edwards-Knox Central School	2512 CR 24, Russell, NY 13684	Kathleen Whitmarsh	(315) 562-8130 ext 1507
F052	St. Regis Falls Central School	Scott Spillane/ Mary Ellen McKane	St. Regis Falls Central School	92 N Main Street, St. Regis Falls, NY 12980	Scott Spillane/ Mary Ellen McKane	(518) 856-9421 ext 8
F053	Saranac CSD	Kathy Garant	Saranac Middle School	70 Picketts Corner Road, Saranac, NY 12981	Kathy Garant	(518) 565-5705
F054	St. Lawrence-Lewis BOCES	Gail Jenkins	Seaway Area Tech Center	7225 State Highway 56, Norwood, NY 13668	Gail Jenkins	(315) 353-2293 ext 20100
F056	Saranac Lake Central School	Ruth Pino	Saranac Lake High School	79 Canaras Ave, Saranac Lake, NY 12983	Bryan McGivney	(518) 897-1729
F057	Schroon Lake Central School	Julie Holbrook	Schroon Lake Central School	1125 US Route 9, Schroon Lake, NY 12870	Julie Holbrook	(518) 532-7164
F058	Clifton Fine Central School	Dora Hanley	Clifton Fine Central School	11 Hall Ave., Star Lake, NY 13690	Dora Hanley	(315) 848-3333 ext. 147
F062	Westport Central School	Tricia Fields	Westport Central School	25 Sisco Street, Westport, NY 12993	Tricia Fields	(518) 962-8244
F063	Willsboro Central School Dist.	Jane Casamento	Willsboro Central School	29 School Lane, Willsboro, NY 12996	Jane Casamento	(518) 963-4456 ext 229
F064	Brasher Falls Central School	Melany Cline	Brasher Falls Central School	1039 State Hwy 11C, Brasher Falls, NY13613	Melany Cline	(315) 389-5131 ext 1138
F064	Brasher Falls Central School	Melany Cline	Brasher Falls Elementary	George Street, Brasher Falls, NY 13613	Melany Cline	(315) 389-5131 ext 1138
F065	Beekmantown Central School	Roxann Barnes	Beekmantown High School	37 Eagle Way, NY 12992	Roxann Barnes	(518) 563-8685
F066	Massena Central School	Peter Bertrand	Massena High School	84 Nightengale Ave., Massena, NY 13662	John Sheets / Chrissy Phillips	(315) 764-3710 ext 3114
F070	St. Mary's School	Pam Neal	St. Mary's School	2 Power Street, Canton, NY 13617	Pam Neal	(315) 386-3572
F074	Chazy Central School	John Fairchild	Chazy Central Rual School	609 Miner Farm Road, Chazy, NY 12921	John Fairchild	(518) 846-7135 ext. 508
F078	St. James School	Sandra Maloy	St. James School	20 S. Gordon Street, Gouverneur, NY 13642	Sandra Maloy	(315) 287-0130
F080	Morristown Central School Dist	George Mullikin	Morristown Central School	408 Gouverneur St., Morristown, NY 13664	George Mullikin	(315) 375-8814
F082	Trinity Catholic School	Michele Chartrand	Trinity Catholic School	188 Main Street, Massena, NY 13662	Michele Chartrand	(315) 764-0012 or (315) 769-5911
F085	The Holy Name of Jesus Academy	Sr. Mary Jordan	The Holy Name of Jesus Academy	337 Trippany Road, Massena, NY 13662	Sr. Mary Jordan	(315) 769-6030
F303	St Lawrence County Correctional Facility	Jennifer Parker - Head Cook	St Lawrence County Correctional Facility	17 Commerce Lane, Canton, NY13617	Jennifer Parker - Head Cook	(315) 379-2451
F304	National Sports Academy	Tim Dulka	National Sports Academy	821 Mirror Lake Drive, Lake Placid, NY 12946	Tim Dulka	(518) 523-3460
F306	Mountain Lake Children's Residence	Carl Bowen	Mountain Lake Children's Residence	386 River Road, Lake Placid, NY 12946	Carl Bowen	(518) 523-4300 ext 156
F402	SUNY Potsdam Child Care Center	Lori Moulton	Merritt Hall, SUSP	44 Pierrepont Ave., Potsdam, NY 13676	Lori Moulton	(315) 267-2391
F409	Potsdam Building Blocks Day Care	Marlene Pickering	Potsdam Building Blocks Day Care	6604 State Highway 56, Potsdam, NY 13676	Marlene Pickering	(315) 265-8260