



Empire State Development

Andrew Cuomo
Governor

Kenneth Adams
ESD CEO

INTERNATIONAL TRADE DEVELOPMENT CONSULTANT SERVICES:

ASIA

REQUEST FOR PROPOSALS

RFP Number: 12-6066

RFP Released: June 4, 2012

PROPOSALS DUE: June 25, 2012 BY 3:00 P.M.

Empire State Development

Albany, New York 12245

www.esd.ny.gov

Request For Proposal (RFP) Response Form

RFP # - 12-6066

Please review this RFP. Complete the following information and mail this form or if submitting a proposal, this form together with your entire proposal, to the address at the bottom of this page. Late proposals cannot be accepted.

_____ **Attached is our proposal**

_____ **We do not intend to submit a proposal for the following reason(s):**

Name of Organization: _____

Address: _____

- Is this address your company's principal place of business? Yes _____ No _____
The term "principal place of business" is defined as follows:

A company's principal place of business is generally considered to be the enterprise's main office, where the regular meetings of its board of directors occurs, and where a company's business is managed, conducted and directed, regardless of where the administrative departments or the physical property of the business are located. For purposes of determining the principal place of business, a foreign business enterprise's principal place of business is not necessarily the same as its state of incorporation. In sum, the determinate is where the actual "business" of the corporation takes place.

If the above address is not your principal place of business, please indicate the full address of your principal place of business on the following two lines:

- Will this product or service be substantially produced in NYS: Yes _____ No _____
- Subject to the "Conditions Governing Proposals" article stated in this RFP, proposals must be in agreement with all terms and conditions of this RFP.

Phone #: _____ **Fax #:** _____

Signature: _____ **Date:** _____

Type or Print Name and Title: _____

By checking this box, we request that you remove our name from your bidders' list

Mail this as the first page of your proposal. If not submitting a proposal, please mail this form to: Lisa Sutton, NYS Department of Economic Development, Office of Fiscal Management, Albany, NY 12245

NEW YORK STATE
DEPARTMENT OF ECONOMIC DEVELOPMENT
REQUEST FOR PROPOSAL
Table of Contents

SECTION I - ADMINISTRATIVE INFORMATION	1
1.0 Purpose.....	1
1.1 Inquiries	1
1.2 Schedule of Pertinent Dates	2
1.3 Submission of Proposals	2
1.4 Designated Contacts.....	2
SECTION II – PROGRAM BACKGROUND AND SCOPE OF SERVICES	3
2.0 Background.....	3
2.1 Scope of Services.....	3
2.2 MANDATORY QUALIFICATION REQUIREMENTS.....	4
2.3 Selection Criteria/Evaluation	4
SECTION III - PROPOSAL CONTENT AND CONDITIONS.....	7
3.0 General Information.....	7
3.1 Complete Proposal	7
3.2 Conditions Governing Proposals	8
3.3 Alternative Proposals	8
3.4 Freedom of Information Law	9
3.5 Notification of Award	9
3.6. Liability.....	9
3.7 Procurement Lobbying.....	10
SECTION IV - CONTRACTUAL INFORMATION.....	11
4.0 Contract Term	11
4.1 Cancellation	11
4.2 Subcontracting Requirements	11
4.3 Payment Process	12
4.4 Minority and Women-owned Business Enterprises (“MWBE”)	12
Participation and Equal Employment Opportunities (“EEO”)	12
4.5 Intellectual Property/Personal Property	13
APPENDIX A – Standard Clauses for All New York State Contracts	
APPENDIX B – Budget	
APPENDIX C – Contractor Travel Reimbursement Guidelines	
APPENDIX D – Non-Collusive Bidding Certification	
APPENDIX E – MacBride Fair Employment Principles	
APPENDIX F – Responsibility Questionnaire	
APPENDIX G – Procurement Lobbying Disclosure Pursuant to Sections 139-J and 139-K of State Finance Law	

SECTION I - ADMINISTRATIVE INFORMATION

1.0 Purpose

The New York State Department of Economic Development (hereafter referred to as “DED”, “NYSDED” or the “Department”) has issued this Request for Proposal (“RFP”) to secure qualified consultant services (the “Contractor”) to perform international business development services in Asia, with an emphasis on NYS business export expansion to China and South Korea (the “Designated Area”) for New York State (“NYS” or the “State”). The successful bidder (also referred to herein as the “Contractor”) will be responsible for various tasks associated with New York State trade development objectives for the Department’s international and other divisions.

The main objective of this project is to locate an independent contractor who will promote increased exports by NYS companies in the Designated Area, including multi-industry initiatives as well as efforts focused on specific industry clusters goods and services exports, such as mining equipment & technologies, environmental & clean tech, food & wine, fashion design, medical, healthcare & biotech, etc.

It is important and in the interest of the selected contractor (the “Contractor”) that the Contractor maintains independence and remains free to perform business development services for other parties, provided that such parties are disclosed to NYSDDED and are not competitive with NYS’s business development interests. Therefore, in order for the Department to secure the Contractor’s services, it is critical that an independent contractor relationship be established versus an employer-employee relationship.

1.1 Inquiries

Inquiries should be addressed to:

Lisa Sutton
NYS Department of Economic Development
rfpfaq@esd.ny.gov

All questions must be submitted in writing to Ms. Sutton via e-mail. Please do not contact the Department by telephone. Questions must be received by the Department no later than June 15, 2012. All inquiries must cite the particular RFP section in the question. Please include the RFP # and title in the subject line of the e-mail. Question submittals must include a completed bidder identification form (see Appendix G, Form 4). Answers to all questions of a substantive nature will be provided to all known recipients of the RFP.

1.2 Schedule of Pertinent Dates

Release of RFP	June 4, 2012
Deadline for Receipt of Questions	June 15, 2012
Submission of Proposals	June 25, 2012 by 3:00 PM Late proposals cannot be accepted.
Oral Presentations/Interviews	By appointment at the discretion of NYSDDED
Award of Contract	July 2012 (estimated)

1.3 Submission of Proposals

Interested individuals or firms must submit their proposals no later than **3:00 P.M. U.S. Eastern Standard Time, on June 25, 2012.** Submit 5 copies of the proposal to the following address:

**Lisa Sutton,
NYS Department of Economic Development
Broadway, 8th Floor
Albany, NY 12245**

It is the responsibility of each individual or firm to ensure timely submission of its proposal. Proposals received after the scheduled date and time cannot be accepted. Proposals submitted by email or facsimile will not be accepted.

1.4 Designated Contacts

For the purpose of the Procurement Lobbying requirements of this RFP (see section 3.7 and Appendix G), the Department's designated contacts shall be Ms. Sutton and employees designated by the Department as part of the Department's Contract Management Unit and all staff designated by the Department to have responsibility and duties in the Department's International Division and the Department's Counsel's Office.

SECTION II – PROGRAM BACKGROUND AND SCOPE OF SERVICES

2.0 Background

The Department is empowered under Section 100 as well as Article 10 of the NYS Economic Development Law to encourage and develop commerce with other states and foreign countries. Information regarding the Department’s activities, programs, incentives, target industries for foreign direct investment, etc., can be found on the Department’s website at www.esd.ny.gov.

2.1 Scope of Services

The Contractor shall perform Trade Development assistance services (“Services”) as further described in this Section 2.1. For the purpose of this RFP and any contract (“the Contract”) resulting from it, Services shall mean the promotion of increased exports of goods and services by NYS small and mid-sized companies (SMEs) to the Designated Area. The Contractor shall render the Services in accordance with the highest professional standards. The Contractor shall coordinate with the Project Manager who shall represent the Department’s interest in coordinating with the Contractor regarding the Services. The Department shall identify the Project Manager prior to commencement of the Contract. The Services performed by the Contractor under the Contract shall include the following:

Export Market Preparation:

- Review the competitive advantages of the NYS SMEs targeted and/or being recruited for participation in trade development activities (trade missions, trade shows, and other specialized export events) in order to effectively target companies in the Designated Area for matchmaking meetings with NYS SMEs.
- Confer and advise as to trade development activities approach for the given market and sector(s), objectives to be achieved, regions/cities to be included in planned efforts/events.
- Discuss market prospects with NYS and with SMEs via conference call, email, etc., including which companies would be the most-suitable targets to meet during the mission, and about how to screen prospective meeting candidates.
- Provide an Action Plan with a preliminary schedule and content related to objectives.
- Finalize Action Plan based on dialogue with NYS.

Trade Development Planning, Matchmaking and Activities Support:

- Confirm the objectives for each element of the trade development activities, such as number of meetings, format of the meetings – including individual, group, business networking receptions, and any scheduled events to speak about and promote NYS, its industries, and its SME exporters.
- Formulate, in close coordination with NYS, details of trade development activities with a detailed project plan covering all relevant elements, including the itinerary, profiles of targeted companies and sales channel partners, protocol for official business-to-business meetings, logistics, lodging preferences, etc.

- Review NYS SME profiles and export market objectives, and outline plans for customized meetings to meet such objectives.
- Address and make recommendations on trade mission content and logistics issues.

Implementation of Trade Missions and other Trade Development Activities:

- Prepare event, visit and meeting schedule for delegations of 5 to 10 firms for trade missions of 7 to 10 days to two to three cities in China and/or South Korea.
- Include for each participating firm customized one-on-one meetings (matchmaking) with 10-12 pre-qualified Chinese and/or South Korean companies across 2-3 cities.
- Prepare brief profiles for each NYS SME of the targeted companies for matchmaking meetings.
- Ensure that for each firm, in each city, matchmaking meetings and business networking events effectively target those companies with specific needs for the given firm's products and/or services, within the targeted industries of focus, and/or meetings are arranged with suitable prospective distributors, agents or partners.
- Arrange and coordinate all in-country logistics for the trade development activities, including hotel rooms, train tickets, plane tickets (if necessary), local transportation in each of the cities, and method of payments for the NYS delegation.
- Provide staff in country, dedicated to implementation of the trade development activities, to provide services including translation, note-taking and overall trip coordinator during the visits.
- Assist with formulating and implementing brief customer satisfaction survey for NYS SME participants to gather information on event results, comments, leads, etc.

Follow-up to Trade Missions and other Trade Development Activities:

- Prepare a trade development activity report after implementation to highlight performance objectives, outputs and outcomes, including meeting details, business networking events, leads generated, projected export sales, and recommended next steps for NYS and for NYS SME participants.

The Contractor will perform the services described above as requested, and the Department may request that the Contractor perform other trade development services as necessary to effective project implementation. NYS DED anticipates using the Contractor's services for up to five trade development missions, trade shows or other activities under this contract.

2.2 MANDATORY QUALIFICATION REQUIREMENTS

Your proposal must demonstrate your ability to comply with each of the items identified below. Inability to demonstrate compliance with these qualifications will result in the disqualification of your proposal.

1. Experience in trade development, export sales channels and related business marketing, with at least 5 years of such experience in the Designated Area.
2. Fluency in reading, writing and speaking English, Chinese and Korean.

3. Demonstrated knowledge of the business communities in the Designated Area, with specific knowledge of NYS targeted industry clusters (see www.esd.ny.gov).
4. University degree;
5. Demonstrated knowledge of New York State (i.e. economics, geography, business community); and
6. Demonstrated ability to provide the services described in this RFP.

2.3 Selection Criteria

Proposals that meet all the mandatory qualifications as outlined in Section 2.2 above will be evaluated by NYSDDED based on the Selection Criteria stated in this section. Proposals will be scored based on the following criteria:

- | | |
|---|------------------|
| 1. <u>Experience of the organization and the staff proposed to carry out the scope of services/plan of action</u> | 30 points |
| 2. <u>Plan of action</u>
(Evaluation of the approach proposed to accomplish Section 2.2 - Scope of Services) | 25 points |
| 3. <u>Cost</u>
(Please review Section 3.1, item f and complete Appendix B - Financial Proposal in full. Do NOT substitute your own budget format.) | 30 points |
| 4. <u>Language Ability</u> (English, Chinese and Korean) | 10 points |
| 5. <u>Knowledge of New York State</u> | 5 points |

EVALUATION PROCESS

Initial evaluation of proposals will be done in two parts – Technical Evaluation and Cost Evaluation. NYSDDED’s evaluation committee will review the technical portion of each proposal based on the technical criteria listed above. NYSDDED’s Evaluation Committee will not be advised of the costs proposed or cost scores (points awarded for cost) prior to the selection of the finalists. However, the evaluation committee may be advised of information, contained in each bidder’s Budget (Appendix B) if such information is deemed by the Department to be pertinent in assessing the level of effort to be put forth by the bidders in performing the project. Then cost scores, computed by NYSDDED’s Contract Management Unit based on a weighted average formula, will be added to the technical score resulting in the total score for the written proposal.

NYSDDED reserves the right to determine whether oral presentations/interviews will be necessary. If NYSDDED decides to conduct oral presentations/interviews, such oral presentations/interviews will occur as follows:

1. Following the evaluation of proposals as provided above, the Evaluation Committee will determine the finalists to be interviewed as those having the highest combined

technical and cost scores. NYSDED anticipates that three (3) proposers will be selected as finalists.

2. Each finalist will be notified of the date, place and time of their oral presentation/interview to be held, either in Albany or in New York City or via telephone/video conference. The oral presentation/interview should further document the proposer's ability to provide the required services. The purpose of the oral presentation/interview is to impart to the Evaluation Committee an understanding of how specific services will be furnished and clarify other information included in the proposal. Further information with regard to the format of this stage of the evaluation may be provided to the finalists prior to their oral presentations/interview.

CONTRACT AWARD

Following the oral presentation/interviews, if any, the Evaluation Committee members will re-score each proposer interviewed on the technical criteria listed above. NYSDED anticipates that the Evaluation Committee will make an award recommendation of one proposer based upon its determination of the best value for NYSDED as the highest total scores (technical and cost).

Upon selection, negotiations will be commenced with the successful proposer to enter into a contract setting forth the general terms that would govern any subsequent contract for services contemplated by this RFP. The Department will not enter into protracted negotiation with the successful bidder over contract terms and conditions or wait an unreasonable amount of time for the return of a signed contract. If the successful bidder does not sign and return to the Department the proposed contract including any draft of the proposed contract, within thirty (30) calendar days of receipt by the Contractor, the Department reserves the right to declare the award of the project to the Contractor null (null award). The Department will not be responsible for any cost incurred by the Contractor as a result of a null award. An award will then be made to the next highest scoring proposer.

SECTION III - PROPOSAL CONTENT AND CONDITIONS

3.0 General Information

In preparing proposals, individuals and firms should follow the guidelines within this RFP.

3.1 Complete Proposal

Each participating bidder must submit a complete proposal with each element of the Selection Criteria, Section 2.3, addressed. In addition, all proposals must include the following information. Bidders supplying incomplete responses may be deemed non-compliant. Please follow the format listed below:

- 1.) Title page, indicating:
Name, address (both mail and email) phone and fax number, contact person, and federal ID number. It must also include a statement that the offer shall be firm and not revocable for a period of sixty (60) days unless withdrawn in writing.
- 2.) An overview of your company. Please limit to two (2) pages.
- 3.) A discussion of the relevant experience of your company, staff and potential subcontractors proposed to provide the Scope of Services. This shall include a demonstration of how your company, staff and potential subcontractors meet the experience requirements in Section 2.2 above. Please limit to three (3) pages.
- 4.) Resumes of key staff proposed to provide the Scope of Services in Section 2.1 above.
- 5.) A discussion on how your company proposes to accomplish the Scope of Services in Section 2.1 above. If any of the tasks associated with the project will be completed by subcontractors or other non-company employees, qualifications and experience of those individuals must to be specified.
- 6.) Experience: NYSDDED considers direct, prior experience in providing the Services requested in this RFP highly desirable. Your proposal must cite how your company meets the experience requirements listed in Section 2.2, including narratives of past projects, successful results, and client and contact lists. Also include a minimum of three references to substantiate that your organization meets those requirements.
- 7.) Budget Requirements: Appendix B of this RFP must be completed and submitted as part of your proposal. DO NOT USE AN ALTERNATIVE BUDGET FORMAT.
- 8.) Other: Please complete and include Appendices D, E, F and, G (Non-Collusive Bidding Certification, MacBride Fair Employment Principles, Responsibility Questionnaire, and Procurement Lobbying Disclosures Pursuant to Sections 139-j and 139-k of State Finance Law respectively). The successful bidder must also complete the following but their inclusion is not required at the time of proposal:
 - New York State tax forms ST-220-CA and ST-220-TD. The ST-220-CA may be found at http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf. The ST-220-TD may be found at

http://www.tax.state.ny.us/pdf/2007/fillin/st/st220td_507_fill_in.pdf.

- A State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term (Form A) available at <http://www.osc.state.ny.us/agencies/gbull/g226forma.pdf>. The State Consultant Services Contractor's Annual Employment Report (Form B), to be submitted annually, available at <http://www.osc.state.ny.us/agencies/gbull/g226form%20b.pdf>.

More information on the consultant services reporting can be found at <http://www.osc.state.ny.us/agencies/gbull/g-226.htm>.

3.2 Conditions Governing Proposals

Only those individuals or firms who have supplied complete information will be considered. Any patented or proprietary information included in the proposal must be clearly identified in the proposal and in a cover letter submitted with the proposal (see Section 3.4).

The Department reserves the following prerogatives:

- to accept or reject any or all proposals;
- to waive or modify minor irregularities in proposals received;
- to eliminate mandatory qualifications unmet by all offerers;
- to disqualify proposed offers that fail to meet the mandatory qualifications;
- to require clarification from any bidder for the purpose of assuring a full understanding of responsiveness to the requirements of the RFP;
- to negotiate with any or all proposers, within the proposal requirements, to best serve the interests of the State of New York;
- to amend the specifications after their release, with due notice given to all those solicited to modify their proposals to reflect the changed specifications;
- to utilize any or all ideas submitted in the proposals received unless those ideas are covered by legal patent or proprietary rights;
- to award contract(s) for any or all parts of a proposal; and
- to elect to award contract(s) to one or more responsive and responsible offerers, provided that the basis for the election among multiple contracts at the time of award shall be the most practical and economical alternative and shall be in the best interest of the State.

By submitting a proposal, an individual or firm agrees that it will not make any claim for or have any right to damages because of any lack of information or misinterpretation of the information provided in this RFP.

3.3 Alternative Proposals

The Department may consider alternative proposals with respect to the Scope of Service (Section 2.1), Budget (Appendix B), and other Sections and Appendices of the RFP, except for terms and conditions mandated by New York State Law or regulation. An alternative proposal is one that recommends goods and/or services that are not in

compliance with the Scope of Service, Budget and, in some cases, other sections of the RFP. The Department does not solicit alternative proposals but will consider them. Please be advised that an alternative proposal cannot be considered by the Department, unless you also submit a proposal in exact compliance (Compliant Proposal) with the terms of this RFP, including completion of Appendix B. A Compliant Proposal is required to allow the Department to compare your proposal to other Compliant Proposals received by the Department.

3.4 Freedom of Information Law

The Department is subject to the Freedom of Information Law, which governs the process for the public disclosure of certain records maintained by the Department. (See Public Officers Law, Sections 87 and 89).

Individuals or firms which submit proposals to the Department may request that the Department except all or part of such proposal from public disclosure, pursuant to Section 87(2)(d) of the Public Officers Law, on the ground that the proposal contains trade secrets, proprietary information, or that the information, if disclosed, would cause substantial injury to the competitive position of the firm submitting the information. Such exception may extend to information contained in the request itself, if public disclosure would defeat the purpose for which the exception is sought. The request for such an exception must be in writing and state the reasons for the requested exception. It must also specify the proposal or portions thereof, for which the exception is requested.

If the Department grants the firm's request for exception from disclosure, the Department shall keep such proposal in secure facilities and shall notify the firm of any request the Department receives for disclosure of the proposal.

3.5 Notification of Award

The Department will notify the successful proposer verbally, followed by written confirmation.

A contract defining all terms and conditions of the parties will be drafted by the Department. The contract may incorporate SECTION II - PROGRAM BACKGROUND AND SCOPE OF SERVICES of this RFP, the State's standard contracting provisions (attached hereto as APPENDIX A) and as much of the successful firm's final proposal as may be appropriate among its provisions. After the Department and the successful firm execute the contract, it must be submitted for approval to the Attorney General's Office and the Office of the State Comptroller.

3.6 Liability

The Department is not liable for any costs incurred by any individual or firm for work performed to prepare its proposal or for any travel or other expenses incurred in the preparation and/or submission of its proposal. Further, the Department is not liable for any costs incurred until the contract has been approved by the Attorney General and the

State Comptroller's Office.

3.7 Procurement Lobbying

Pursuant to State Finance Law §§139-j and 139-k, this Request for Proposal includes and imposes certain restrictions on communications between the Department 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 through final award and approval of the Procurement Contract by the Department and 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 in Section 1.4 of this solicitation. To avoid conflicts and other issues concerning statutory exceptions, the Department requires that Offerers contact only Department staff identified in the aforementioned section of this solicitation. Department employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the 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 4 year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html> or by calling the New York State Office of General Services; Ms. Anne Phillips, OGS Legal Services, Empire State Plaza, 41st Floor Tower Building, Empire State Plaza, Albany NY 12242. Telephone: (518) 474-5607. E-mail: Anne.Phillips@OGS.State.NY.US.

State Finance Law Sections 139-j and 139-k may be viewed at

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-j.htm> and at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-k.htm>

SECTION IV - CONTRACTUAL INFORMATION

4.0 Contract Term

The successful offerer shall perform the work and provide the services set forth in this RFP as an independent contractor for a period of one year, with the potential for two additional annual extensions, for a total term of up to three (3) years. If the contract is not terminated early, the contract consideration (the Budget) will be adjusted upon mutual written consent of the parties, one (1) year from the term start date of the Contract and on each subsequent anniversary date, except for the contract termination date.

The Department reserves the right to cancel any contract resulting from this RFP as described in Section 4.1 – Cancellation below. Both parties agree that any contract resulting from this RFP shall end on the termination date unless terminated as described in Section 4.1 – Cancellation below.

4.1 Cancellation

Once a contract or other agreement resulting from this RFP is fully executed and approved, the Department has the right to cancel it early, in whole or in part, for cause or unavailability of State funds at any time or for convenience on thirty (30) calendar days written notice to the Contractor. If cancelled for cause, payment to the Contractor for charges incurred will be made at the Department's sole discretion. If cancelled for convenience, the Department agrees to pay the Contractor for charges incurred in the performance of the Contract up to the time of cancellation. If cancelled for unavailability of State funds, the Department will not be liable for payment but will use its best efforts to pay outstanding charges previously approved by the Department to the extent permitted by New York State Law.

Additionally, the Department also reserves the right to terminate this contract 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 Department may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract.

4.2 Subcontracting Requirements

The bidder may subcontract elements of the program for which it lacks location or in-house capabilities. The firm's proposal must identify the subcontracting firm or firms and cite the proposal. The Department is an equal opportunity contractor and reserves the right to review and approve all subcontracting firms.

After the contract resulting from this RFP, if any, is awarded, any subcontractors or purchases in excess of \$15,000 that were not originally identified in the Contractor's proposal must adhere to the following:

- For subcontracts or purchases that are competitively bid the Contractor must request

proposals from a minimum of three (3) qualified firms, and the lowest responsible or best value proposer, as appropriate, shall be accepted unless otherwise approved in writing by the Department.

- Subcontracts or purchases that are sole or single source must include a detailed justification and require the written approval of the Department prior to entering into the agreement.

4.3 Payment Process

Payment for services performed to the satisfaction of the Department shall be made in the ordinary course of State business upon receipt of duly authenticated invoices/vouchers, list of tasks performed during the billing period in a format acceptable to the Department and upon receipt of reports and/or deliverables, if required elsewhere in this RFP.

The release of this RFP by the NYSDED does not guarantee that a contract will be entered into. Moreover, if a contract is entered into (fully ratified) the right to assign work for any or all services described in this RFP is at the sole discretion of the NYSDED.

4.4 Minority and Women-owned Business Enterprises (“MWBE”) Participation and Equal Employment Opportunities (“EEO”)

(a) General Obligations:

The State of New York and NYSDED actively support and encourage equal employment opportunities on State contracts for minorities and women and the participation of certified minority and women-owned business enterprises. The contract which NYSDED will prepare based on this RFP will contain provisions regarding the Contractor’s obligation under Article 15-A of the Executive Law and its implementing regulations; the participation of certified minority and women-owned business enterprises in the performance of the contract, and include clauses dealing with equal employment opportunities.

(b) MWBE Goals

NYSDED has established a 0% goal for the participation of certified minority-owned enterprises and a goal of 0% for the participation of certified women-owned enterprises on the project or services to be performed under this contract (“NYSDED’s goals”). To facilitate your use of certified minority and women-owned business enterprises, NYSDED has available for your inspection at its Finance Office at 625 Broadway., Albany; at the Minority and Women-Owned Business Development Division at 633 Third Avenue, New York; and at <http://205.232.252.35/>, a copy of the New York State Directory of Certified Minority and Women-owned Business Enterprises (the “Directory”), which lists certified minority and women-owned businesses and their fields of expertise. After the award of the contract the Contractor will be required to submit a Utilization Plan, as specified by NYSDED.

(c) Equal Employment Opportunities

The contract will require that the Contractor and sub-contractors undertake or continue existing programs of affirmative action 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. Affirmative action 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.

After this project is awarded, the successful bidder shall submit an Equal Employment Opportunity Policy Statement to the Department as part of their proposal.

The Contractor's EEO Policy Statement shall contain a statement that during the performance of this contract:

(1) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action 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 on this contract.

(2) The Contractor shall state in all solicitations or advertisements for employees to perform this contract, all qualified applicants will be afforded equal employment opportunities without discrimination.

(3) At the request of the Department, 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 and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

After an award of this contract, the Contractor shall submit to the Department a Utilization Report in a form and manner required by the Department. The Contractor shall include in every subcontract in connection with this contract the requirement that subcontractors shall undertake or continue existing programs of affirmative action and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on this contract.

4.5 Intellectual Property/Personal Property

The Department reserves the right to include intellectual/personal property provisions in the Contract. The presumption is that, unless otherwise stated and agreed to in writing, all intellectual property is owned by the Department, including reports, surveys, and all other works made or performed for hire.

APPENDIX A

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).

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

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

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

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

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the

Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

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

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

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

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

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement

that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

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

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

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

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

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

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

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

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

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

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

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

NYS Department of Economic Development

Division for Small Business

Albany, New York 12245

Telephone: 518-292-5220

Fax: 518-292-5884

<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:
NYS Department of Economic Development
Division of Minority and Women's Business Development
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

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

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

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

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

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

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

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

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

December, 2011

APPENDIX B - BUDGET

Refer to Section 3.1, item 7 for additional guidance on completing the following budget.

Professional Fees for Trade Development Services- estimating up to 5 Trade Development Events	<u>Subcontractor</u> (Y/N)	<u>Total Amount</u> and Hourly Rate
Contractor- Title		
Trade Mission Cost: inclusive per mission for up to 3 missions	_____	\$ _____
Trade Show Cost: inclusive per show for up to 2 shows	_____	\$ _____
Other Trade Development Services:	_____	\$ _____

Each amount above shall be INCLUSIVE of ancillary costs such as, but not limited to, salary, fringe, taxes, overhead and profit. The budget should estimate costs for up to 5 trade development events, understanding that NYS DED will proceed on a per event basis, and is under no obligation to conduct more than one event.

Contractor shall be required to work primarily in the Designated Area. All rates shall be inclusive of any travel or commuting including but not limited to mileage, lodging, parking, meals, and travel time.

The Contractor may only bill for contractor services related to the scope of services. The Contractor may not bill the Department for sick, vacation, or time taken by consultant.

APPENDIX C

CONTRACTOR TRAVEL REIMBURSEMENT GUIDELINES

1. Allowance for lodging and meals have been set at the Federal Government allowances for their employees. The State allowance will change when the Federal allowances change. This usually occurs on an annual basis. Reimbursements will be made at the current published rates.

Receipts for lodging are mandatory. Receipts are not required for meals when the traveler is in overnight travel status. The Schedule which lists rates currently in effect for all destinations within the State is available at the New York State Office of the State Comptroller's website:

<http://www.osc.state.ny.us/agencies/travel/reimbrate.htm>

The per diem allowances are based on the county of assignment, therefore, the traveler's destination, as noted on the claim for reimbursement, must include the county, as well as the city. The Schedule ends with the rate for all locations (counties) not listed on the Schedule.

Please note that all applicable taxes are included in the maximum lodging allowances. No reimbursement for taxes will be made separately.

Rates for areas outside of New York, the continental United States and foreign areas, are also available at the New York State Office of the State Comptroller's website at:

<http://www.osc.state.ny.us/agencies/travel/reimbrate.htm>

The maximum reimbursement for lodging and meal expenses may not exceed the lodging and meal allowances for the area of travel.

If the cost of lodging exceeds the maximum allowance for lodging in the area of travel, the traveler's meal allowance must be used to offset the higher lodging rate. The following examples of an overnight stay in a location with a maximum allowance of \$110 (\$68 lodging, \$42 meals) at various lodging rates, illustrates how this will be applied:

<u>Actual Lodging</u>	<u>Meal Allowance</u>	<u>Max. Total Allowance</u>
\$68	\$42	\$110
90	20	110
84	26	110
156	0	110
160	0	110

3. No reimbursement will be allowed for lunch.
4. To be entitled to full meal allowances, traveler must be in travel status overnight and eligible for reimbursement for breakfast and dinner.
5. Meal Allowance for Non-Overnight Travel
When a traveler is in travel status for less than a day and lodging charges are not incurred, reimbursement will be made for breakfast and dinner with receipts, at the following maximum rates:

	Breakfast	Dinner
\$71 Meal Allowance	\$14	\$57
\$66 Meal Allowance	\$13	\$53
\$61 Meal Allowance	\$12	\$49
\$56 Meal Allowance	\$11	\$45
\$51 Meal Allowance	\$10	\$41
\$46 Meal Allowance	\$9	\$37

Note: Incidental expenses such as tips to bellmen, porters, hotel maids, etc., continue to be included in the allowances.

6. Transportation Costs

Any common carrier transportation costs incurred should be at coach rate unless extenuating circumstances prevent such, in which instance a justification must be submitted with the expense.

Receipts/air passenger coupons are required for reimbursement.

Transportation by personally owned automobiles will be reimbursed at the IRS rate in effect at the time of travel unless the Department agrees to an alternative rate. The mileage rate for the calendar year 2012, effective January 1, 2012 is .555 cents per mile.

All taxi charges must be substantiated by a receipt.

NOTE: *Incidental expenses such as tips to bellmen, porters, hotel maids, etc., continue to be included in the Federal allowance.*

APPENDIX D

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

SECTION 139-D, Statement of Non-Collusion in bids to the State

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

1. The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowing be disclosed by the Bidder prior to opening , directly or indirectly, to any other Bidder or to any competitor; and

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

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

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

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ Day of _____, 20____ as the act and deed of said individual, corporation or partnership.

Person Legally Responsible for Binding Bidder

Name _____ Title _____
Signature _____

Joint or combined bids must be certified on behalf of each participant

Legal name of person, firm or corporation Legal name of person, firm or corporation

Person(s) Legally Responsible for Binding Participant

Name _____	Name _____
Title _____	Title _____
Business Address _____	Business Address _____
Street	Street
_____	_____
City State	City State

Identifying Data

Bidder's Name _____

Business Address _____

Street

City, State, Zip

Telephone _____

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:

NAME OF PARTNERS OR PRINCIPALS

BUSINESS ADDRESS

IF BIDDERS(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:

NAME

BUSINESS ADDRESS

President:

Secretary:

Treasurer:

President:

Secretary:

Treasurer:

APPENDIX E

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

In accordance with section 165 of the State Finance Law, 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 in the bidder, either: (answer yes or no to one or both of the following, as applicable),

- (1) has business operations in Northern Ireland;

Yes ____ or No ____

if yes:

- (2) shall take lawful steps in good faith to conduct any business operations that it has 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 ____ or No ____

Signature

Date

APPENDIX F

RESPONSIBILITY QUESTIONNAIRE

INSTRUCTIONS:

Please complete this form answering every question. A “Yes” answer to any question requires a written explanation attached to the questionnaire and submitted on company letterhead signed by an officer of the company.

Companies are responsible for updating information in their Responsibility Questionnaire as changes occur. Any vendor recommended for award on a New York State contract will be required to have this form on file to ratify any of the contracts.

QUESTIONS:

Within the past five years, has your firm, any affiliate¹, any owner or officer or major stockholder or any person involved in the bidding or contracting process been the subject of any of the following:

1. a judgment or conviction for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion?
 YES NO
2. a criminal investigation or indictment for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion?
 YES NO
3. an unsatisfied judgment, injunction or lien obtained by a government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any government agency?
 YES NO
4. an investigation for a civil violation (excluding minor traffic infractions) by any local, state or federal agency?
 YES NO
5. a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including, but not limited to, fraud, extortion, bribery, racketeering, price-fixing, or bid collusion?
 YES NO
6. a local, state, or federal suspension, debarment or termination from a contract process?
 YES NO
7. a local, state or federal contract suspension or termination for cause prior to the completion of the term of a contract?
 YES NO
8. a local, state, or federal denial of award for non-responsibility?
 YES NO
9. an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal contract?
 YES NO
10. a State Labor Law violation deemed willful?
 YES NO
11. a firm-related bankruptcy proceeding?
 YES NO
12. a sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license
 YES NO
 NO

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

13. a decertification, revocation or forfeiture of Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise status? _____ YES _____ NO
14. an occupational Safety and Health Act citation and Notification of Penalty containing a violation classified as serious or willful? _____ YES _____ NO
15. a rejection of a bid on a New York State contract for failure to comply with the MacBride Fair Employment Principles? _____ YES _____ NO
16. a citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of:
- federal, state or local health laws, rules or regulations
 - unemployment insurance or workers' compensation coverage or claim requirements
 - ERISA (Employee Retirement Income Security Act)
 - federal, state or local human rights laws
 - federal or state security laws
 - federal INS (Immigration and Naturalization Services) and Alienage laws
 - Sherman Act or other federal anti-trust laws
- _____ YES _____ NO
17. complaints or reports of contract deviation received within the past two years for contract performance issues arising out of a contract with any federal, state or local agency? _____ YES _____ NO
18. disputes within the past two years concerning your company's failure to provide commodities or services to political subdivisions within the past two years pursuant to centralized contracts with the New York State Office of General Services? _____ YES _____ NO
19. Employee Identification No., Social Security No., Name, DBA, trade name or abbreviation previously or currently used by your business which is different from that listed in your proposal. _____ YES _____ NO

CERTIFICATION:

The undersigned recognizes that this responsibility questionnaire is submitted for the express purpose of assisting the State of New York or its agencies or political subdivisions to make a determination; acknowledges that the State or its agencies and political subdivisions may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 USC Section 1001; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

Name of Business

Signature of Officer

Address

Typed Copy of Signature

City, State, Zip

Title

APPENDIX G

PROCUREMENT LOBBYING DISCLOSURE PURSUANT TO SECTIONS 139-J AND 139-K OF STATE FINANCE LAW

Statutory Summary

Changes to the New York State Finance Law (referred to as the “new State Finance Law”) effective January 1, 2006, significantly alter the administrative process for the development of State procurement contracts. The procedures discussed herein are put in place to address the new State Finance Law. The New York State Department of Economic Development recognizes the considerable additional responsibility that the new State Finance Law places on potential bidders (“Offerers”) as well as on the Department and we regret any inconvenience. The Department assures you that we are interested in receiving a proposal from your company. Among other things, the new law:

- Makes the States lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by the Department.
- Requires the Department to record **all** contacts made by lobbyists and contractors (you) about a governmental procurement so that the public knows who is contacting the Department about procurements.
- Requires the Department to designate persons who generally may be the **only** staff contacted relative to the Department’s procurement in a restricted period.
- Authorizes the imposition of fines and penalties against persons/organizations engaging in impermissible contacts about a Department procurement and provides for the debarment of repeat violators.
- Directs the Office of General Services to disclose and maintain a list of non-responsible bidders pursuant to this new law and those who have been debarred and publish such list on its website.
- Expands the definition of lobbying to include procurement contracts.

Generally speaking, two related aspects of procurements were affected: (i) activities by the business and lobbying community seeking procurement contracts and (ii) activities involving governmental agencies establishing procurement contracts. The obligations imposed by State Finance Law Sections 139-j and 139-k are collectively referred to as the “new State Finance Law”. State Finance Law Sections 139-j and 139-k may be viewed at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-j.htm> and at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/sfl139-k.htm>

The following contains language and forms (these forms must be completed and returned as part of your proposal, and when indicated at other times during this procurement process) to be reviewed and completed by you the bidder (“Offerer”), in compliance with sections 139-J and 139-k of the State Finance Law.

Form 1 - Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

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.

The Department must obtain the required affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible Contacts in the restricted period for a procurement contract in accordance with State Finance Law §§139-j and 139-k.

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

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

Form 2 - 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 procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

The Department must obtain the required certification that the information is complete, true and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offerer must agree to the certification and provide it to the procuring Governmental Entity.

Offerer Certification:

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

By: _____ Date: _____

Name: _____ Title: _____

Contractor Name: _____

Contractor Address: _____

Form 3 - Offerer Disclosure of Prior Non-Responsibility Determinations

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).

The Department 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: _____

Date: _____

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

No Yes

If yes, please answer the next questions:

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

No Yes

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

No Yes

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

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

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

No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

OFFERER CERTIFIES THAT ALL INFORMATION PROVIDED TO THE GOVERNMENTAL ENTITY WITH RESPECT TO STATE FINANCE LAW §139-K IS COMPLETE, TRUE AND ACCURATE.

By: _____ Date: _____

Signature: _____

Form 4 - Report of Contact under State Finance Law §139-k(4)

THIS FORM TO BE COMPLETED AND RETURNED TO THE DEPARTMENT WHENEVER YOU CONTACT US DURING THE DESIGNATED PERIOD. ATTEMPTS TO CONTACT THE DEPARTMENT WILL NOT BE ACKNOWLEDGED UNLESS YOU PROVIDE THIS FORM. THIS INCLUDES THE SUBMISSION OF QUESTIONS PURSUANT TO SECTION 1.1 OF THIS RFP.

New York State Finance Law §139-k(4) obligates every Governmental Entity during the Restricted Period of a Procurement Contract to make a written record of any Contacts made. The term “Contact” is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the Governmental Procurement. In addition to obtaining the required identifying information, the Governmental Entity must inquire and record whether the person or organization that made the Contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or Contact the Governmental Entity.

It should be noted that State Finance Law §139-k(6) provides: [a]ny communications received by a governmental entity from members of the state legislature, or legislative staffs, when acting in their official capacity, shall not be considered to be a “contact” within the meaning of this section and shall not be recorded by a governmental entity pursuant to this section.

Offerers and those designated, employed or retained by Offerers are hereby advised of the Department’s intention to record all Contacts.

Record of Contact Under State Finance Law §139-k(4)

To: The New York state Department of Economic Development

Regarding Procurement Project No.: _____ (See first page of this document)

From: _____
(Name and title of Offerer)

Date: _____

Subject: Record of Contact under State Finance Law §139-k(4). In accordance with State Finance Law §139-k(4), the following information is provided).

Address of Offerer: _____

Telephone Number: _____

Offerer’s Place of Principal Employment (Name and Address of your Employer, may be different from the Offerer’s name and address, if not state same as above).

Your Occupation: _____

1. Is the above named person or organization the “Offerer” in this governmental procurement? Please circle Yes or No
2. If no, was the above named person or organization retained, employed or designated by the “Offerer” to:
 - Appear before the governmental entity about the governmental procurement? Please circle – Yes or No
 - Contact the governmental entity about the governmental procurement? Please circle – Yes or No