

## **Statement of Objectives**

### **Study of Electronic or Digital Link Disclosure National Bioengineered Food Disclosure Standard**

#### **1.1 PURPOSE:**

This work will support development of regulations for the National Bioengineered Food Disclosure Standard (Pub. L. 114-216) through the completion of an effective and legally defensible study to identify potential technological challenges that may impact whether consumers would have access to the bioengineering disclosure through electronic or digital disclosure methods, as required by statute.

#### **1.2 BACKGROUND:**

On July 29, 2016, the Agricultural Marketing Act of 1946 was amended to establish a National Bioengineered Food Disclosure Standard (hereafter, the Law). The Law gives the United States Department of Agriculture's Agricultural Marketing Service (AMS; Agency) the authority to establish a national disclosure standard for how food for human consumption will be disclosed as containing bioengineered ingredients. The disclosure methods identified by the Law include on-package text developed by the Agency, a symbol developed by the Agency, or an electronic or digital disclosure. For small food manufacturers (as will be defined through subsequent rulemaking), two additional forms of disclosure are allowed - a telephone number accompanied by appropriate language to indicate that the phone number provides access to additional information, and an Internet website maintained by the small food manufacturer.

The legislation designates that the electronic or digital disclosure provide access to an Internet website or other landing page and that the electronic or digital disclosure must be of sufficient size to be easily and effectively scanned or read by a digital device. The Law also requires that the electronic or digital disclosure cannot be an Internet website address a consumer would have to type into a browser to access, except for small food manufacturers (as will be defined through subsequent rulemaking), who are allowed to have an Internet website as the electronic or digital disclosure method.

As AMS develops the standard, section 293 of the Law also requires AMS to "conduct a study to identify potential technology challenges that may impact whether consumers would have access to the bioengineering disclosure through electronic or digital disclosure methods." On September 1, 2016, AMS solicited public comment on the design of this Study of Electronic or Digital Link Disclosure. One of the concerns identified was that AMS was considering two separate studies and, specifically, that the consumer use study was outside of the scope of what the law was directing AMS to do. AMS utilized that input to write the solicitation as requesting one study be conducted that is clearly tied to the direction of Congress. This Statement of Objectives relates to the statutory mandate to conduct this study.

#### **1.3 SCOPE:**

AMS is seeking a vendor to conduct this Study of Electronic or Digital Link Disclosure, to be submitted to the Agency by May 30, 2017. The study requires a nation-wide evaluation of challenges and possible solutions for consumers to access information regarding the bioengineered status of foods via an electronic or digital disclosure method. The nation-wide scope includes retailers, including small and rural retailers, and consumers, including rural and underserved consumers. This scope includes Indian tribal communities.

The study will not include restaurants or similar retail food establishments.

The study needs to include methodology to address the notion that populations (retailers or consumers) would be excluded from obtaining the information related to the bioengineered content of food when food manufacturers choose to use electronic or digital disclosure as a method of disclosure instead of the other options available. The study should identify obstacles (if any) regarding the utility of electronic or digital disclosures for those consumers who desire information regarding whether a food product contains bioengineered ingredients. However, the study is not intended to be a referendum on whether consumers would prefer to use electronic or digital disclosure to obtain

bioengineered food disclosure information over other types of statutorily allowable disclosures available to manufacturers but rather whether consumers could obtain this information through such means.

#### **1.4 PERFORMANCE OBJECTIVES AND REQUIREMENTS:**

##### **Study of Electronic or Digital Link Disclosure**

AMS requires a Study of Electronic or Digital Link Disclosure to identify nation-wide challenges and present possible solutions for consumers to access information regarding the bioengineered status of foods via an electronic or digital disclosure method, as stated in the Law. The Law requires AMS to conduct a study that "... shall consider whether consumer access to the bioengineering disclosure through electronic or digital disclosure methods ... would be affected by the following factors:

- (A) The availability of wireless Internet or cellular networks.
- (B) The availability of landline telephones in stores.
- (C) Challenges facing small retailers and rural retailers.
- (D) The efforts that retailers and other entities have taken to address potential technology and infrastructure challenges.
- (E) The costs and benefits of installing in retail stores electronic or digital link scanners or other evolving technology that provide bioengineering disclosure information."

The Law makes exceptions for alternative reasonable disclosure options for food contained in small or very small packages (as will be defined in subsequent rulemaking), including electronic or digital disclosure options. The Law also excludes food served in a restaurant or similar retail food establishment (as will be defined more clearly in subsequent rulemaking), and very small food manufacturers from the national disclosure requirements.

The study should identify consumers who may or may not use electronic or digital disclosures when purchasing bioengineered food, the behavioral, technological and infrastructure barriers (or perceptions of barriers) that may limit use of electronic or digital disclosures for those consumers who desire information about the bioengineered ingredients in their food, and possible solutions to improve access or use including the recommendation of additional methods of disclosure than those already outlined in the Law.

##### **Public Input**

As stated above, on September 1, 2016, AMS solicited public comment on the design of the Study of Electronic or Digital Link Disclosure, and have considered these comments in the development of this Statement of Objectives. AMS will publish an Advanced Notice of Proposed Rulemaking (ANPR) during the period of performance for this contract. The ANPR will present information on the Agency's possible implementation of the law and seek additional public comment on the use of electronic or digital disclosures. The public comments the Agency receives during this comment period will be provided to the vendor to inform the study as it is being conducted.

Additionally, AMS encourages the study design to incorporate other opportunities for public participation.

##### **AMS Expectations**

AMS expects the awardee to use innovative and human-designed based methods to create a study that:

- Meets the requirements as stated in the National Bioengineered Food Disclosure Standard (Pub. L. 114-216);
- Provides an understanding of consumer and retailer needs with respect to using electronic or digital means to access bioengineered food disclosures, including underserved consumers and rural retailers;
- Includes opportunities for public participation; and
- Informs the Agency about the feasibility of solutions to challenges identified for retailer or consumer access for technical implementation and cost.

#### **1.5 OPERATING CONSTRAINTS:**

As stated above, the study must meet the requirements as stated in the National Bioengineered Food Standard. By statute, the study must be completed by one year after enactment of the Law.

AMS must also receive, and will retain rights of, all data produced in the course of developing, deploying, training, using, and supporting the study. Additionally, publication and distribution of the study and other documents produced as a result of this effort is at the sole discretion of the U.S. Government. The final work product and supporting research will be the property of the U.S. Government.

**1.6 PERIOD OF PERFORMANCE:**

All work shall be finished by no later than May 30, 2017, 60 days prior to the July 29, 2017, statutory deadline to permit AMS to publish the study in compliance with statutory requirements.

**1.7 APPLICABLE DOCUMENTS:**

The Law amending the Agricultural Marketing Act of 1946 to include Subtitle E, the National Bioengineered Food Disclosure Standard (Pub. L. 114-216).