

## **Procurement Lobbying Law Information and Forms**

State Finance Law §§139-j and 139-k, imposes certain restrictions on communications between the NYS Department of Financial Services (the “Department”) and any Bidder during this procurement process. A Bidder is restricted from contacting the Department until final award and approval of the Procurement Contract by the Department and Office of the State Comptroller (“restricted period”). Contact with Designated Staff, or a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a) may be exempted from this restriction.

All inquiries concerning this procurement should be addressed to the following:

Ron Wachenheim  
Department of Financial Services  
Office of Financial Management  
One Commerce Plaza, Suite #1850  
99 Washington Avenue  
Albany, NY 12257  
(518) 402-5375  
[rfp@dfs.ny.gov](mailto:rfp@dfs.ny.gov)  
Fax (518) 486-6809

All questions should be submitted in writing, citing the particular proposal section and paragraph number. Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the agreement, are to be resolved prior to the submission of a proposal. Answers to all questions of a substantive nature will be given to all prospective Bidders in the form of a formal addendum, which will be annexed to and become part of the resultant agreement.

Department employees are required to obtain certain information when contacted during the restricted period and they are required to make a determination of the responsibility of the Bidder pursuant to State Finance Law §§139-j and 139-k. Certain findings of non-responsibility can result in rejection for contract award. In the event of two (2) findings of non-responsibility within a four (4) year period, the Bidder will be debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the internet at: <http://www.ogs.ny.gov/acpl/>

**Accordingly, each Bidder must complete the forms on the following pages.**

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

### **Background:**

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Bidder 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 “Bidder” 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 a Bidder 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 Bidder 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 Bidder is necessary to protect public property or public health safety, and that the Bidder is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

### **Instructions:**

The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract.

## Bidder Disclosure of Prior Non-Responsibility Determinations

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)

**Bidder's Affirmation of Understanding of and Agreement pursuant to  
State Finance Law §139-j (3) and §139-j (6) (b) and Bidder's  
Certification of Compliance with State Finance Law §139-k(5)**

**Background:**

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

Every Governmental Entity shall seek written affirmations from all Bidders as to the Bidder'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.

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 Bidder that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

The Governmental Entity reserves the right to terminate this contract in the event it is found that the certification filed by the Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Governmental Entity may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of this contract. The Bidder affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). I certify that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

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

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

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

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

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

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