

LEGISLATIVE BILL DRAFTING COMMISSION

DEPARTMENT OF UNDERSTANDING OF and Agreement pursuant to
Offerer's Affirmation of Understanding of and Agreement pursuant to
State Finance Law §139-j (3) and §139-j (6) (b)
(See reverse side for Background and Instructions)

This form must be completed by any Offerer/Bidder which intends to participate in the procurement process specified below and returned to LBD's Department of Administration at the following address upon receipt of the solicitation package.

LBD
Department of Administration

55 Elk Street, Albany, New York 12210

(Phone: 518-455-7602)

Contract/Procurement Identifier: _____

Offerer/Bidder Affirmation:

Offerer/Bidder affirms that it understands and agrees to comply with the LBD's procedures relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b) and as described in LBD's Guidelines for Implementing the Procurement Lobbying Law.

Signature: _____

Date: _____

Print Name: _____

Title: _____

Offerer/Bidder Name: _____

Offerer/Bidder Address: _____

Background:

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.

Instructions:

LBDC 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 covered procurement in accordance with State Finance Law §§139-j and 139-k. This form will be sent out with the initial written solicitation to all prospective bidders. It must be completed by any bidder which intends to participate in the specified procurement process and returned to LBDC's Department of Administration at the address indicated on the form upon receipt of the solicitation package.

LEGISLATIVE BILL DRAFTING COMMISSION
DEPARTMENT OF ADMINISTRATION
Offerer's Disclosure of Prior Non-Responsibility Determinations

Contract/Procurement Identifier: _____
Offerer/Bidder Name: _____
Address: _____

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):
Yes No
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):
Yes No

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):
Yes No

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 individual or entity named in this form due to the intentional provision of false or incomplete information? (Please circle):
Yes No
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 Legislative Bill Drafting Commission with respect to State Finance Law § 139-k is complete, true and accurate.
Signature: _____
Date: _____

Print Name/Title: _____

Background:

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

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

Instructions:

The attached form is to be completed by any vendor seeking to enter into a procurement contract with LBDC. It will be sent out with the initial written solicitation.

It must be completed by any vendor which intends to participate in the specified procurement process and returned to LBDC's Department of Administration at the address below upon receipt of the solicitation package.

LBDC Department of Administration

55 Elk Street

Albany, NY 12210

(Phone: 518-455-7602)

LEGISLATIVE BILL DRAFTING COMMISSION

Guidelines for Implementing the Procurement Lobbying Law

As suggested by the Advisory Council on Procurement Lobbying, LBDC has chosen to adopt the Council's Frequently Asked Questions as its Guidelines. A copy of these Guidelines is attached. An interactive version of the Council's Frequently Asked Questions can also be found on the NYS Office of General Services' website at the following address:

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/Faq.htm>

Instructions:

A Contract Termination Provision shall be included in each Procurement Contract governed by State Finance Law §139-k. New York State Finance Law §139-k(5) provides that every procurement contract award subject to the provisions of State Finance Law §139-k and 139-j shall contain a provision authorizing LBDC to terminate the contract in the event that the certification is found to be intentionally false or intentionally incomplete. This statutory contract language authorizes, but does not mandate, termination. "Procurement Contract" is defined in State Finance Law §139-k(1).

If a contract is terminated in accordance with State Finance Law §139-k(5), LBDC is required to include a statement in the procurement record describing the basis for any action taken under the termination provision.

Model Contract Termination Provision for Contracts/PO's/Agreements

LBDC 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, LBDC may exercise its termination right by providing notification to the contractor in accordance with the notification terms of this contract.

- The term "Contract" may be amended to conform to the terminology used to describe the underlying agreement (ie., Agreement, Contract)
- "Contractor" may be amended to conform to the Offerer's legal identity (set forth in full or abbreviated) as set forth in the contract.

LEGISLATIVE BILL DRAFTING COMMISSION
Offerer's Certification of Compliance with State Finance Law § 139-k (5)

Contract/Procurement Identifier: _____

Offerer Certification:

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

Signature: _____

Print Name: _____

Title: _____

Offerer/Bidder Name: _____

Offerer/Bidder Address: _____

Background:

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 LBDC with respect to State Finance Law § 139-k is complete, true and accurate.

Instructions:

LBDC must obtain the required certification from the Offerer/Bidder 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/Bidder must agree to the certification and provide it to LBDC. This form must be obtained prior to the signing of covered contracts, purchase orders or agreements, or as a form made a part of bids submitted pursuant to the release of a Request for Proposal or Invitation for Bids.

LEGISLATIVE BILL DRAFTING COMMISSION
DEPARTMENT OF ADMINISTRATION
SUMMARY OF PROCUREMENT LOBBYING POLICY
AND LIST OF DESIGNATED CONTACTS

Restricted Period Begin Date: June 13, 2014

Summary of Procurement Lobbying Policy:

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the Legislative Bill Drafting Commission and an Offerer/Bidder or his/her employees, representatives or lobbyists during the procurement process. From the date of this letter through final award and approval of the Procurement Contract by the Office of the State Comptroller (a period known as the "Restricted Period", an Offerer/Bidder or his/her employees, representatives or lobbyists are restricted from making contacts to other than designated staff (known as "Designated Contacts") unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139 j(3)(a). Designated Contacts, as of the date hereof, are identified below. Legislative Bill Drafting Commission employees are also required to obtain information when contacted during the Restricted Period (a log of such contacts will be kept, made a part of the procurement file, and will be accessible to the public) 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 any governmental Procurement Contracts. Further information about these requirements can be found in the Legislative Bill Drafting Commission Guidelines for Implementing the Procurement Lobbying Law attached to this solicitation or on the NYS OGS website at:

<http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/Faq.htm>

Designated Contacts:

Procurement Identifier: Audit

For this procurement process, the Legislative Bill Drafting Commission's

Designated Contacts are:

Name/Title	Phone	Email
Geralyn Ruhle, Dir. of Administration **	518-455-7602	Ruhle@lbdc.state.ny.us
Perez Jaquith, Rosemarie, Admin. Counsel**	518-455-7605	Perez@lbdc.state.ny.us
**Contacts for pricing		