

OGS CONTRACTOR/VENDOR OBLIGATIONS UNDER STATE FINANCE LAW §§139-J AND 139-K

INSTRUCTIONS

State Finance Law §§139-j and 139-k, imposes certain restrictions on communications between the Office of General Services (OGS) Real Estate Planning (REP) and a contractor/offerer during the “Restricted Period” of the procurement process. A contractor/offerer is restricted from making “contacts” from the earliest notice of intent to solicit offers through final award and approval by the Office of the State Comptroller (“Restricted Period”) to other than designated OGS staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). “Contact” is a defined term that generally means a reasonable person would infer the communication was an attempt to influence the procurement. A contractor/offerer **is not** allowed to contact anyone from the occupying agency nor anyone not specifically designated by OGS-REP to influence the procurement

For the purposes of this document, a contractor/offerer can be a Landlord, Licensor, Licensee or Tenant of the State of New York.

Please identify every person or organization retained, employed or act as your designated representative that may be contacting us during the Restricted Period.

This form shall be completed and submitted with your proposal or offer. If at the time of submission of this form, the specific name of a person authorized to attempt to influence a decision on your behalf is unknown, you agree to provide the specific person's information when it is available. You also agree to update this information during the negotiation or Restricted Period for this procurement. By signing this form, the offerer understands and agrees 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 Office of General Services relative to permissible contacts as required by State Finance Law §§139-j and 139-k

In addition, State Finance Law §§139-j and 139-k require the collection of information regarding specific types of prior non-responsibility determinations. Certain findings of non-responsibility can result in rejection for contract award and in the event of 2 findings within a 4 year period; the contractor is debarred from obtaining government contracts. Please provide the required information in the space indicated below.

For more information on State Finance Law §§139-j and 139-k, please visit the website at: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisorycouncil.html>.

SUMMARY OF OGS-REP POLICY

The following is a summary of OGS Real Property's (REP) policy regarding the lobbying law requirements. It is the policy of OGS REP to comply with the provisions of the procurement lobbying law established by Chapter 1 of the Laws of 2005 including State Finance Law §139-j, Restrictions on Contacts During the Procurement Process, and State Finance Law §139-k, Disclosure of Contacts and Responsibility of Offerers:

1. REP shall designate a specific person or persons to receive contacts regarding each procurement. The names of the designated contacts are to be included in the solicitation for the lease space, such as a Request For Information, included on the REP website. Such staff shall complete a record of contact for each contact that constitutes an attempt to influence the procurement contract.
2. REP staff shall require offerers to complete the “OGS Contractor/Vendor Obligations Under State Finance Law §§139-j and 139-k” form, and provide a written affirmation that the offerer understands and agrees to comply with REP's procedures regarding permissible contacts. This form also requires the offerers to:
 - Provide the:
 - Name of Person and Organization
 - Address
 - Telephone Number
 - Place of Principal Employment
 - Occupation
 - Record Whether the Person/Organization making the contact is the offerer or retained, employed or designated by or on behalf of the offerer to appear before or contact the Governmental Procurement.
 - Disclose prior non-responsibility determinations. State Finance Law §§139-j and 139-k require the collection of information regarding specific types of prior non-responsibility determinations. Certain findings of non-responsibility can result in rejection for contract award and in the event of 2 findings within a 4 year period; the contractor is debarred from obtaining government contracts.

- Acknowledge that the State reserves the right to terminate this contract in the event it is found that the certification filed by the offerer in accordance with New York State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding(s), the State may exercise its termination right by providing written notification to the offerer in accordance with the written notification terms of the contract.
3. Upon any contact in the restricted period, OGS staff shall complete a record of contact obtaining specific information. The date and nature of the phone call shall be included on RealNet. If the individual was not listed on the "OGS Contractor/Vendor Obligations Under State Finance Law §§139-j and 139-k" form such contact shall be recorded on a "Record of Contact" form and included in the procurement record.
 4. OGS staff shall make a final determination regarding a proposed awardee's responsibility for purposes of State Finance Law §§ 139-j and 139-k. OGS staff shall consult with such non-responsibility and debarment list when assessing the responsibility of an offerer.
 5. If OGS staff becomes aware that an offerer has violated the requirements about permissible contacts, such staff shall immediately notify the OGS Ethics Officer through the REP Director.
 6. The OGS lease boilerplate will also obtain a certification by the offerer that all information provided with respect to State Finance Law §139-k is complete, true and accurate. It shall also include language that the State reserves the right to terminate the contract in the event it is found that the certification filed by the offerer in accordance with New York State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding(s), the State may exercise its termination right by providing written notification to the offerer in accordance with the written notification terms of the contract.

It is OGS' policy that its staff shall promptly complete the record of contacts and forward such records to the appropriate individual for inclusion in the procurement record.

For additional information on this policy, please see the links below:

Advisory Council on Procurement Lobbying at <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>. A copy of the statutes, a summary of the policy and its prohibitions, model language for inclusion in solicitations and forms to be included for compliance with State Finance Law §§139-j and 139-k are found here.

NAME/ ADDRESS / TELEPHONE NUMBER:

**PLACE OF PRINCIPAL EMPLOYMENT:
OCCUPATION/TITLE:**

Is the above named person or organization the "Offerer" in this Lease Project?
(Please circle) YES NO

If **NO**, was the above named person or organization retained, employed or designated by the "Offerer" to:
- Appear before OGS about the Lease Project? **YES NO**
- Contact OGS about the Lease Project? **YES NO**

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

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

HAS ANY COVERED AGENCY, AUTHORITY OR ANY GOVERNMENTAL AGENCY MADE A FINDING OF NON-RESPONSIBILITY REGARDING YOU OR YOUR ORGANIZATION IN THE PREVIOUS FOUR YEARS? (PLEASE CHECK) YES NO

If **YES**, was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information required by **STATE FINANCE LAW §§ 139-j or 139-k?**
(PLEASE CHECK) YES NO

If **YES**, was the basis for the finding of non-responsibility due to a violation of **STATE FINANCE LAW §§ 139-j or 139-k?** **(PLEASE CHECK) YES NO**

If you answered **YES** to any of the above questions, please provide details regarding the finding of non-responsibility below:

COVERED AGENCY, AUTHORITY OR GOVERNMENTAL AGENCY:

YEAR OF FINDING: _____

BASIS OF FINDING OF NON-RESPONSIBILITY: (Please use additional pages if necessary)

HAS ANY COVERED AGENCY, AUTHORITY OR GOVERNMENTAL AGENCY TERMINATED A PROCUREMENT CONTRACT WITH YOU OR YOUR ORGANIZATION DUE TO THE INTENTIONAL PROVISION OF FALSE OR INCOMPLETE INFORMATION REQUIRED STATE FINANCE LAW §§ 139-j or 139-k? (PLEASE CHECK) YES NO

The State reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding(s), the State may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of the contract.

Authorized signature affirms that he/she and all parties listed above understand and agree to comply with the procedures of the Office of General Services relative to permissible contacts as required by State Finance Law § 139-j (3) and 139-j (6) (b).k., and certifies that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.

AUTHORIZED SIGNATURE

DATE

PRINT NAME/TITLE

OGS Use Only

AE/PM Initials

Date to LPU