



# Appendix B

Information for Contractors

## **B-1: Procurement Lobbying Forms**

Pursuant to State Finance Law §§139-j and 139-k, this Project Definition includes and imposes certain restrictions on contact with the New York State Workers' Compensation Board during the procurement process. 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 Division 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.

An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers for this project definition through final award and approval of the contract by the Office of the State Comptroller 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) the end of the restricted period. This period is hereby termed the "Restricted Period."

**Designated contacts are identified below.** The New York State Workers' Compensation Board 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>.

All firms responding to the Project Definition **must** complete the forms found in this Attachment A-10 (and listed below) and submit them with the proposal.

### PROCUREMENT LOBBYING FORMS:

- Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)
- Offerer's Certification of Compliance with State Finance Law §139-k(5)
- Offerer Disclosure of Prior Non-Responsibility Determinations

**Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)**

The New York 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.

As a "Governmental Entity," the New York State Workers' Compensation Board 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.

<p>_____ affirms that it understands and agrees to comply with the (Name of Offerer/bidder's firm)</p> <p>procedures of the New York State Workers' Compensation Board relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).</p> <p>By: _____ Date: _____ (PRINT Name of Authorized Representative)</p> <p>Signature: _____</p> <p>Title: _____</p> <p>Contractor Address: _____ _____ _____</p>
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**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 New York State Workers' Compensation Board with respect to State Finance Law §139-k is complete, true and accurate.

The NYS Workers' Compensation Board 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 of Compliance with State Finance Law §139-k(5)**

**II. Offerer Certification:**

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(PRINT Name of Authorized Representative)

Signature: \_\_\_\_\_

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

Contractor Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### 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: \_\_\_\_\_

\_\_\_\_\_

Contract Procurement Number: \_\_\_\_\_

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 (PLEASE PRINT): \_\_\_\_\_

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

\_\_\_\_\_

Signature

**Non-Collusive Bidding Certification**

**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, BIDDER 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 purposes 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 knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] 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 FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

[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 corporation of partnership.

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

NAMES OF PARTNERS OR PRINCIPALS

LEGAL RESIDENCE

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

NAME

LEGAL RESIDENCE

\_\_\_\_\_  
President

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\_\_\_\_\_  
Secretary

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\_\_\_\_\_  
Treasurer

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\_\_\_\_\_  
President

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\_\_\_\_\_  
Secretary

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\_\_\_\_\_  
Treasurer

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## **B-2: Sales Tax Certification Instructions**

The Tax Law was amended to require contractors with state agencies to certify to the Department of Taxation and Finance (DTF) that they, their affiliates, their subcontractors and the affiliates of their subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. Tax Law Section 5-a applies to all contracts in excess of **\$100,000** for the purchase by a covered agency of commodities or services, awarded pursuant to Article XI of the State Finance Law.

For submission to the Division, Contractors must complete Contractor Certification Form ST-220-CA, a required document to be provided by the contractor to the procuring agency before a contract may take effect. This certification to the procuring agency, also made under penalty of perjury, states that the requisite (ST-220-TD) certification has been made to DTF and, to the best of the contractor's knowledge, that the requisite (ST-220-TD) certification is correct and complete. Attached electronically will be the necessary form for the Division, ST-220-CA.

If contractor has any questions regarding either forms, ST-220-CA or ST-220-TD, the New York State Comptroller G Bulletin will provide background information and necessity of both forms (<http://www.osc.state.ny.us/agencies/gbull/g222a.htm>).

Contractors can refer to the Department of Taxation and Finance website, or the NYS Tax Law, Section 5-a, *Contractor Affiliate, Subcontractor, and Subcontractor Affiliate Sales and Compensating Use Tax Registration* for additional information and guidance.

### **B-3: New York State Vendor Responsibility Questionnaire**

A contracting agency is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. This questionnaire is designed to provide information to assist a contracting agency in assessing a vendor's responsibility prior to entering into a contract with the vendor. Vendor responsibility is determined by a review of each bidder or proposer's authorization to do business in New York, business integrity, financial and organizational capacity, and performance history.

To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact the Division of Electronic payments at the Office of the State Comptroller for a copy of the paper form.

Vendors who file the Vendor Responsibility Questionnaire online, prior to the proposal due date do not need to submit a paper copy as part of their administrative proposal.

**Prospective contractors must answer every question in the questionnaire and where appropriate additional information may be required for the questionnaire to be complete and accurate.** The completed questionnaire and responses will become part of the procurement record.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing contractor's business and operations as the questionnaire information must be attested to by an owner or officer of the vendor.

**CONSULTANT FIRMS**  
**B-4: Contractor Disclosure Forms**

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as “contracts entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services” (“covered consultant contract” or “covered consultant services”). The amendments also require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), the Division of the Budget and the Department of Civil Service (CS).

To meet these new requirements, the Contractor agrees to complete:

**Form A** - Contractor’s Planned Employment Form. The successful Contractor must complete this form with three business days of notification of **selection by DOB**.

**Form B** - Contractor’s Annual Employment Report. Throughout the term of the Contract by May 15th of each year the Contractor agrees to report the following information to the Division of the Budget. For each covered consultant contract in effect at any time between the preceding April 1st through March 31st fiscal year or for the period of time such contract was in effect during such prior State fiscal year Contractor reports the:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.\*

\*NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.

Contractor agrees to simultaneously report such information to the Department of Civil Service and the Office of the State Comptroller as designated below:

**Department of Civil Service**  
Alfred E. Smith State Office Building  
Albany, NY 12239

**Office of the State Comptroller –  
Bureau of Contracts**  
110 State St., 11<sup>th</sup> Floor  
Albany, New York  
Attn: Consultant Reporting

- Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the State agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

Further information is available in the Office of the State Comptroller's Bulletin G-226 <http://www.osc.state.ny.us/agencies/gbull/g-226.htm> regarding the Contractor Consultant Law requirements and report Forms A and B.





## **B-5: Electronic Payments**

**Important information for all vendors:** it is now a requirement for all vendors doing business with New York State to accept electronic payments. Payees are being advised to go to the Comptroller's website to complete and file an electronic payment authorization form. Vendors and grantees should complete and file a Substitute W-9 form at the same time they complete the electronic payment authorization form.

For vendors that are NOT already registered to receive electronic payments from the State, it is necessary for the vendor to complete the [Electronic Payment Authorization Form for Vendors and Government Entities](#) and mail the form, together with the [Substitute W-9 form](#), *directly* to OSC's Bureau of State Accounting Operations (see address below). Only *signed originals* of the Electronic Payment Authorization Form will be accepted and should be submitted with an attached voided check (as verification of the vendor's banking information). If a vendor chooses not to submit a voided check, their Financial Institution can complete section two of the authorization form, and the Financial Institution must forward the application directly to:

NYS Office of the State Comptroller  
Bureau of State Accounting Operations  
Warrant & Payment Control Unit  
110 State Street - 9th Floor  
Albany, NY 12236

Please take note that the Electronic Payment Authorization Form must be mailed directly to the Bureau of State Accounting Operations. This is for the protection of the payees and to safeguard the transfer and control of sensitive information from the vendor or financial institution to the Office of the State Comptroller.

Additional information and procedures for enrollment can be found at our website <http://www.osc.state.ny.us/epay>.

