

LONG ISLAND RAIL ROAD

Procurement & Logistics Department

Compliance with NYS State Finance Law Sections 139-j and 139-k ("Lobbying Law")

**COMPLIANCE WITH
NYS STATE FINANCE LAW §§139-j AND 139-k**

NEW YORK STATE'S STATE FINANCE LAW SECTIONS 139-J AND 139-K

All procurements by the Authority in excess of \$15,000 annually, are subject to New York State's State Finance Law Sections 139-j and 139-k, effective January 1, 2006 ("Lobbying Law").

Pursuant to the Lobbying Law, all "contacts" (defined as oral, written or electronic communications with the Authority intended to influence a procurement) during procurement must be made with the designated Point of Contact only. Exceptions to this rule include written questions during the bid process, communications with regard to protests, contract negotiations and RFP conference participants. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate Authority officer and investigated accordingly. First violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. The Authority will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be "knowing and willful" must be reported to the Authority President and OGS.

Moreover, the statutes require the Authority to obtain certain affirmation and certifications from bidders and proposers. This **SCHEDULE** contains the forms to comply, with additional information and instructions.

**COMPLIANCE WITH
NYS STATE FINANCE LAW §§139-j AND 139-k**

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Instructions:

New York State Finance Law §139-k(2) obligates the Authority to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9) or New York State Executive Order 127. 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.

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 the factual elements of the limited waiver provision can be satisfied on the written record.

THE FORM IS ON THE NEXT PAGE.

**COMPLIANCE WITH
NYS STATE FINANCE LAW §§139-j AND 139-k**

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Name of Bidder/Proposer: _____

Address: _____

Name and Title of Person Submitting this Form: _____

Has any governmental entity* made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years?	No	Yes
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If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j?	No	Yes
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Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?	No	Yes
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If yes, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Year of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility:

(Add additional pages as necessary)

Has any governmental entity terminated a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete information?	No	Yes
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* A "governmental entity" is: (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New York State Legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL §139-j, paragraph 1.a.)

BIDDER’S/PROPOSER’S AFFIRMATION AND CERTIFICATION

By signing below, the Bidder/Proposer:

- a) Affirms that the Bidder/Proposer Understands and agrees to comply with the policy regarding permissible contacts in accordance with State Finance Law Sections 139-j and 139-k of New York State.

- b) Certifies that all information provided to the Authority with respect to State Finance Law §139-j and §139-k is complete, true and accurate.

By: _____
(Signature of Person Certifying)

Date: _____

Print Name: _____

Print Title: _____

Bidder/Proposer or
Contractor/Consultant: _____
(Full Legal Name)

Address: _____

Business
Telephone Number: _____

THE AUTHORITY’S RIGHT TO TERMINATE

The Authority reserves the right to terminate a Contract in the event it is found that the certification filed by the Contractor/Consultant, as Bidder/Proposer, in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Contractor/Consultant in accordance with the written notification terms of the Contract.