Attachment 2

Procurement Lobbying Law Compliance

1. **Required Forms:** The consultant shall sign and e-mail/fax the following forms. These forms are part of and due with the consultant’s proposal.
   
a) “Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)”

b) “Offerer Disclosure of Prior Non-Responsibility Determinations”.

2. **NYSDOT Guidelines and Procedures**

   Under the requirements of the State Procurement Act all communications regarding advertised projects are to be channeled through the Office of Contract Management (*Designated Contacts). Until a designation is made, communication with any other NYSDOT employee concerning this project that is determined to be an attempt to influence the procurement may result in disqualification.


3. **Summary of the policy and prohibitions regarding permissible contacts**

   a) **Contacts prior to designation:**

   Any communications involving an attempt to influence the procurement are only permitted with the following Designated Contact Persons:

   - The Office of Contract Management Designation Analyst
   - The Office of Contract Management Designation Analyst Supervisor
   - The Contract Management Civil Rights Unit Supervisor
   - The Office of Contract Management Assistant Directors
   - The Office of Contract Management Director

   These are some communications exempted from this restriction:

   - Participation in a pre-proposal conference
   - Protests, complaints of improper conduct or misrepresentation

   If any other NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee. If the Department determines an impermissible contact was made, that offerer cannot be awarded the contract. A second violation would lead to a four year bar on the award of public contracts to the offerer.

   b) **Contacts after designation**
NYSDOT identifies its primary negotiation contacts. The designated contacts include:

The Office of Contract Management Negotiation Analyst  
The Office of Contract Management Negotiation Analyst Supervisor  
The Contract Management Civil Rights Unit Supervisor  
The Office of Contract Management Assistant Directors  
The Office of Contract Management Director  
The Consultant Management Bureau consultant job manager  
The Consultant Management Bureau consultant job manager’s immediate supervisor  

The law does not limit who may be contacted during the negotiation process. However, if any NYSDOT employee is contacted and they believe a reasonable person would infer that the communication was intended to influence the procurement, the contact must be reported by the NYSDOT employee.

c) Information Required from Offerers that contact NYSDOT staff, prior to contract approval by the Office of the State Comptroller:

The individuals contacting NYSDOT should refer and shall be prepared to provide the following information, either by e-mail or fax as directed by NYSDOT:

Person’s name, firm person works for, address of employer, telephone number, occupation, firm they are representing, and whether owner, employee, retained by or designated by the firm to appear before or contact the NYSDOT.

d) Applicability to an executed contract

Restrictions similar to those described above apply to approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer. The staff noted above as well as the project manager and consultant manager are considered designated contact persons. The Department may identify other contact persons for each of these processes.

4. Rules and regulations and more information on this law, please visit:

http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/Faq.htm (Advisory Council FAQs)  
http://www.nylobby.state.ny.us/  
http://www.nylobby.state.ny.us/lobbying.html (New York State Lobbying Act)  
http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html

For more information, go to NYSDOT’s World Wide Web Site at http://www.nysdot.gov or contact:

[*Analyst]  
NYSDOT Office of Contract Management  
50 Wolf Road, 1st Floor  
Albany, New York 12232  
E-mail: ____________@DOT.STATE.NY.US  
Tele: (518) 457-2600
Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j (3) and §139-j (6) (b)

<table>
<thead>
<tr>
<th>Offerer 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).</th>
</tr>
</thead>
<tbody>
<tr>
<td>By: ___________________________ Date:____________________</td>
</tr>
<tr>
<td>Signature</td>
</tr>
<tr>
<td>Contract Procurement Number: ________________________</td>
</tr>
<tr>
<td>Name: ___________________________</td>
</tr>
<tr>
<td>Title: ___________________________</td>
</tr>
<tr>
<td>Contractor Name: ___________________________</td>
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<tr>
<td>Contractor Address: ___________________________</td>
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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 three 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: __________________________________ Date: __________________________

Name: __________________________________________

Title: __________________________________________