

New York State Department of Public Service
Procurement Lobbying Guidelines

General

Effective January 1, 2006, all offerers and persons acting on their behalf who communicate with the Department of Public Service (DPS) with respect to certain procurements are subject to the requirements and restrictions set forth in Chapter 1 of the Laws of 2005 as amended by Chapter 596 of the Laws of 2005 (the Procurement Lobbying Act or PLA). Detailed information regarding the PLA can be found by clicking on the link below.

<http://www.ogs.ny.gov/ACPL/>

DPS Procurements

For procurements within the scope of the PLA, DPS is required to establish a "restricted period" during which certain types of communications are permitted to be made to the DPS "designated contact." Details regarding the DPS policy which complies with the PLA follow.

DPS PLA Policy

In accordance with State Finance Law (SFL) Sections 139-j and 139-k, it is the policy of the Department of Public Service to limit **contact** between **offerers** and the Department to designated agency personnel during the **restricted period** of a Department procurement with an annualized expenditure over \$15,000. Methods of procurement range from a Request for Proposal (RFP) advertised in the Contract Reporter that results in a formal contract, to a verbal request for a price quote that results in a purchase order. Further examples of methods of procurement include but are not limited to: solicitations for proposals, invitations for bids, or any other type of solicitation for purchase. The agency's designated contact for all procurements is Judith Regan, Administrative Officer for the Department. Additional contact designees will be named, as necessary, for each procurement.

"**Contact**" is defined as any oral, written or electronic communication with the Department under circumstances where a reasonable person would infer that the communication was intended to influence a procurement. See SFL Section 139-j(1)(c).

"**Offerer**" is defined as the individual or entity, or any employee, agent (e.g., a person or persons authorized by the offerer to act for or in place of the offerer) or consultant or person acting on behalf of such individual or entity that contacts the Department about a procurement. See SFL Section 139-j(1)(h).

"**Restricted period**" is defined as the period of time commencing with the earliest notice for soliciting a response from offerers intending to result in a procurement contract with the Department and terminating with the final contract award and approval by the Department and, where applicable, the Office of the State Comptroller. See SFL Section 139-j(1)(f).

Designated agency personnel must keep a record of all offerer contacts that a reasonable person would infer are attempts to influence the procurement made to any employee of the Department regarding such a procurement. Records of such contacts will be included in the procurement record. See SFL Section 139-k(4). Contacts from the Legislature or legislative staff acting in their official capacity are exempted, and shall not be recorded. See SFL Section 139-k(6).

Agency procurements and respective contact designees will be listed on the Department's internet web site. Employees should periodically check the web site for current procurement information.

If an employee of the Department becomes aware that an offerer has violated this contact policy (e.g., employee has either been contacted by an offerer in a manner that a reasonable person would infer was an attempt to influence a procurement or is aware that an offerer has contacted another employee in a manner that a reasonable person would infer was an attempt to influence a procurement and the employee is aware that such contact has not been reported), it is incumbent on the Department employee to complete a Record of Contact form and immediately forward it to the Ethics Officer, Kathleen Burgess, for investigation and Judith Regan for inclusion in the procurement record so as to ensure such record is complete.

Complaints by an offerer regarding the failure of the designated contact to respond in a timely manner to the authorized offerer may be made by following the procedure outlined below. Such written complaints and the resolutions thereof shall become part of the procurement record.