WAYNE COUNTY WATER AND SEWER AUTHORITY

PROCUREMENT POLICY

PURPOSE

As a public benefit corporation, the Wayne County Water and Sewer Authority (the "Authority") conducts its operations in a manner that best serves the interests of its customers and the general public. The Authority expects all members, officers and employees to comply and cause the Authority to comply with all laws and regulations governing business transactions. The state legislature recently adopted state finance law §§139-j and 139-k (the "Statutes")[1] to reform the procurement process for all governmental entities, including the Authority.

This Procurement Policy is intended to conform the Authority's procurement process to the requirements of the Statutes as well as to general municipal law ("GML") §§103 and 104-b.

ARTICLE 1

DEFINITIONS

As used herein, the following terms shall have the meanings set forth below:

1. **Article of Procurement**

   A commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a Governmental Procurement.

2. **Contacts**

   Any oral, written or electronic communication with a Governmental Entity under circumstances where a reasonable person would infer that the communication was intended to influence the Governmental Procurement.

3. **Governmental Entity**

   (a) Any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (b) each house of the state legislature; (c) the unified court system; (d) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (e) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a

[1] These provisions are in effect until July 31, 2026, unless extended by the state legislature.

member by virtue of holding a civil office of the state; (f) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (g) a subsidiary or affiliate of such a public authority.

4. **Governmental Procurement**

(a)The preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a Procurement Contract, (b) solicitation for a Procurement Contract, (c)evaluation of a Procurement Contract, (d) award, approval, denial or disapproval of a Procurement Contract, or (e) 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 financial benefit to the Offerer.

5. **Impermissible Contacts**

Contacts made by an Offerer shall be considered impermissible if the Offerer fails to satisfy the requirements of Article 4 and Article 5 hereof. In general, an Impermissible Contact occurs when an Offerer contacts a person in a Governmental Entity who is not the Designated Contact Person in a way that a reasonable person would infer was intended to influence the Governmental Procurement.

6. **Offerer**

The individual or entity, or any employee, agent or consultant acting on behalf of such individual or entity, that contacts a Government Entity about a Governmental Procurement during the Restricted Period of such Governmental Procurement.

7. **Permissible Contacts**

Contacts made by an Offerer shall be considered permissible only if the Offerer satisfies the requirements of Article 4 and Article 5 hereof.

8. **Procurement Contract**

Any contract or other agreement for an Article of Procurement involving an estimated annualized expenditure in excess of Fifteen Thousand Dollars ($15,000). Grants , article eleven-B state finance law contracts (i.e., any contract providing for a payment under a program appropriation to a not-for-profit corporation), intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed Procurement Contracts.

9. **Designated Contact Person**

This term shall have the meaning set forth in Article 3 hereof.

10. **Procurement Record**

This term shall have the meaning to set forth in Article 6 hereof.

11. **Proposal**

Any bid, quotation, offer or response to a Governmental Entity's solicitation of submissions relating to procurement.

12. **Restricted Period**

The period of time commencing with the earliest written notice, advertisement or solicitation of a proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract and ending with the final contract award and approval by the Governmental Entity.

13. **Solicitation Materials**

This term shall have the meaning set forth in paragraph (a) of Article 4 hereof.

14. E-Procurement

The Authority has adopted procedures authorizing the receipt of bids or offers electronically, but only in connection with purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the Labor Law, such as for building construction). However, in such cases, paper bids or offers will also be accepted. Where authorized by the Authority, the advertisement for bids or offers shall designate how the electronic bid or offer will be received by the Authority including, as appropriate, the website or email address where such bid or offer should be sent. Any method used to receive electronic bids by the Authority shall comply with article three of the State Technology Law, and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must (a) document the time and date of receipt of each bid and offer received electronically; (b) authenticate the identity of the sender; (c) ensure the security of the information transmitted; and (d) ensure the confidentiality of the bid or offer until the time and date established for the opening of bids or offers. The timely submission of an electronic bid or offer in compliance with instructions provided by the Authority for such submission in the advertisement for bids or offers and/or the specifications shall be the responsibility solely of each bidder or offerer or prospective bidder or offerer. The Authority shall not assume or incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic bids and offers.

ARTICLE 2

ETHICS OFFICER

On an annual basis, members of the Authority who are deemed to be "independent members" under the Public Authorities Accountability Act shall appoint an "Ethics Officer" who shall be responsible for recommending updates, as appropriate, to the Authority's Code of Ethics or Conflict of Interest Policies (collectively "Code of Ethics") and shall have further responsibilities set forth in Article 9 hereof.

ARTICLE 3

DESIGNATED CONTACT PERSON

The members of the Authority hereby delegate to the Authority's Executive Director ("Executive Director") the power to select a "Designated Contact Person" for each and every governmental procurement by the Authority. The Executive Director may either select the designated contact person at the time of governmental procurement commences or select a designated contact person in advance for each type or category of governmental procurement. Such designated contact person shall be the designated "contact" person for Offerers during the Restricted Period surrounding each Governmental Procurement.

ARTICLE 4

CONTACTS BY OFFERERS

All Contacts between an Offerer and the Authority during the restricted period for each Governmental Procurement shall be made through a designated contact person, unless one of the following exceptions applies:

(a) The submission of written proposals in response to a request for proposals, invitation for bids or any other method of soliciting a response from Offerers intending to result in a Procurement Contract (collectively, "Soliciting Materials");

(b) The submission of written questions to a designated contact set forth in any solicitation materials, when all written questions and responses are to be disseminated to all Offerers who have expressed interest in the solicitation materials;

(c) Participation in a conference provided for in any solicitation materials;

(d) Complaints made in writing by Offerer to the Executive Director by an Offerer regarding the failure of the applicable Procurement Officer to respond in a timely manner to authorized

Offerer Contacts, provided that such written complaints shall become a part of the Procurement Record;

(e) Offerers who have been tentatively awarded a contract and are communicating with the Authority for the sole purpose of negotiating the contract, so long as the contact occurs after the Offerer has received notice of the tentative award;

(f) Contact between designated Authority staff and an Offerer in which the Offerer requests the review of a procurement award;

(g) Contacts by Offerers in protest, appeals or other review proceedings before the Authority seeking a final administrative determination, or in a subsequent judicial proceeding;

(h) Complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or

(i) Written protests, appeals or complaints to the state comptrollers office during the process of contract approval, where the state comptroller's approval is required by law, provided that such communications are made in writing and shall be entered into the procurement record; and

(j) Complaints of improper conduct and governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office.

The Statutes and this Policy permit communications between Offerers and the Authority prior to the restricted period in the form of a request for information ("RFI") by the Authority and the response thereto by the Offerer. The RFI must be used as a means to collect information upon which to base a decision by the Authority to proceed with a governmental procurement and not as a tool employed to award a procurement contract.

ARTICLE 5

OTHER PROHIBITED OFFERER ACTIVITIES

In addition to utilizing the Designated Contact Person for all Contacts with the Authority, the following additional rules shall apply to all Offerers;

(a) Offerers shall not attempt to influence the Authority's governmental procurement in a manner that would result in a violation of any state ethics/conflict of interest statute or the Authority's Code of Ethics; and

(b) Offerers are prohibited from contacting any member, officer or employee of a Governmental Entity other than the Authority[1], during the restricted period of a governmental procurement, regarding the Authority's pending procurement.

ARTICLE 6
PROCUREMENT RECORD

For each Governmental Procurement of the Authority, the designated contact person shall maintain a procurement record (the "Procurement Record"), including all written materials pertaining to the specific governmental procurement. Upon any contact in the restricted period, the designated contact person shall obtain the name, address, telephone number, place of principle employment and occupation of the person or organization making the Contact and inquire and record whether the person or organization making such contact was the Offerer or was retained, employed or designated by or on behalf of the Offerer to appear before or contact the Authority about the governmental procurement. The procurement record shall include recorded contacts described in the prior sentence, whether such contacts are permissible contacts or impermissible contacts. The procurement record shall not include contacts with certain public officials as described in the footnote to item (b) of Article 5 hereof. In addition, the procurement record shall not include communications that a reasonable person would infer are not intended to influence a governmental procurement. The Authority shall keep a written or electronic copy of the procurement record for a period of six years from the end of the restricted period for each governmental procurement.

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[1] This prohibition is not applicable to Contacts between an Offerer and a member of the state legislature or legislative staff about a governmental entity other than the state legislature, or a member of the state legislature or legislative staff contacting a governmental entity about a governmental procurement being conducted by a governmental entity other than state legislature, provided that the member of the state legislature or legislative staff is acting in their official capacity.

ARTICLE 7
REQUIRED DISCLOSURE

In general, all solicitation materials shall incorporate a summary of the policy and prohibitions of the Statutes as well as include copies of rules, regulations and the Authority's guidelines and procedures regarding permissible contacts during a governmental procurement. The following provisions offer specific methods for satisfying such requirements.

1. In all Authority solicitation materials, the following statement shall appear:

   Pursuant to State Finance Law §§139-j and 139-k, this solicitation [or use other applicable identifier, i.e. "Invitation for Bid" or "Request for Proposal" etc.] includes and imposes certain restrictions on communications between a Governmental Entity (including the Authority) and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers [or use other applicable identifier, i.e. "Invitation for Bid" or "Request for Proposal" etc.] through final award and approval of the Procurement Contract by the Authority and , if applicable, the Office of the State Comptroller

[the Authority may delete the reference to Comptroller approval when not applicable] ("restricted period"), to other than the Authority's Designated Contact Person unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The Authority's Designated Contact Person for this Governmental Procurement, as of the date hereof, is identified on the first page of this solicitation for bids [or wherever in the bid document it is identified]. Authority 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 four (4) year period, the Offerer/bidder is debarred from obtaining governmental procurement contracts. Further information about these requirements may be obtained from the designated contact person.

2. In all Authority Procurement Contracts, the following provision shall appear:

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

3. In each response to any Solicitation Materials, the Offerer shall complete the following in a timely, complete and accurate fashion:
   (a) "Offerer Affirmation of Understanding of and Agreement pursuant to State Finance Law §§139-j(3) and 139-j(6)(b)" in the form provided in Appendix "A" hereto;

   (b) "Offerer Certification of Compliance with State Finance Law §139-k(5)" in the form provided in Appendix "A" hereto; and

   (c) "Offerer Disclosure of Prior Non-Responsibility Determination" in the form provided in Appendix "B" hereto.

   The failure of an Offerer to comply with such disclosure requirements will subject the Offerer to the sanctions described in Article 10 hereof, as well as any other penalties permitted by law.

ARTICLE 8

REQUIREMENTS OF THE AUTHORITY PRIOR TO AWARDING PROCUREMENT CONTRACTS

Prior to conducting an award of a Procurement Contract, the Members of the Authority shall:

1. Make a final determination of responsibility of the proposed awardee in accordance with the Authority's existing procedures;

2. Make a final determination of responsibility of the proposed awardee that measures compliance with the provisions of the Statutes regarding (i) Permissible Contacts, (ii) the timely and accurate disclosure of all information required in any Solicitation Materials (including, but not limited to, prior findings of non-responsibility by a Governmental Entity) as provided for in Article 7 hereof and (iii) the awardee's duty to cooperate with the Authority in administering the provisions of this Policy; and

3. Make a final determination that the procurement process for such proposed award was free from any conduct prohibited under the public officer's law as well as the applicable provisions of the Authority's Code of Ethics.

ARTICLE 9

ALLEGED VIOLATION; PROCEDURE

1. Any member, officer or employee of the Authority who becomes aware that an Offerer has violated this policy or the Statutes shall:
   (a) Immediately notify the Ethics Officer, who shall immediately investigate the alleged violation(s).

   (b) If, after commencing the investigation, the Ethics Officer finds there is sufficient cause to believe the alleged violation has occurred, s/he shall give the alleged violating Offerer reasonable notice (in the form of a certified letter, return receipt requested) informing him /her that an investigation of the allegation is ongoing and providing him/her with an opportunity to be heard in response to be heard to the allegation(s).

   (c) If, following the opportunity to be heard, the Ethics Officer determines that the Offerer has knowingly and willfully violated Policy, the Statutes or any applicable procurement

disclosure standards affecting Offerers, members, officers or employees of the Authority, the Offerer shall be subject to sanctions described in Article 10 hereof.

2. The Ethics Officer shall report to the Ethics Officer of another governmental entity conducting a governmental procurement any violation of the Statutes by and Offerer or by such other governmental entity's employee. The Ethics Officer shall be the person designated by such procuring governmental entity to receive similar communications coming from another governmental entity.

ARTICLE 10

SANCTIONS

1. Upon finding by Ethics Officer that an Offerer has knowingly and willfully violated this Policy, the Statutes or any other applicable procurement disclosure standards affecting Offerers, members, officers or employees of the Authority, the Offerer shall be subject to the following sanctions, as well as any other penalty permitted by law:

   (a) The Offerer shall be deemed "non-responsible" and such Offerer (along with its subsidiaries and any other related or successor entity) shall not be awarded the Procurement Contract, unless the Authority finds that the following special circumstances exist and includes a statement describing the basis for such a finding in the Procurement Record:

      (i) The award to the offending Offerer is necessary to protect public property or public health or safety; and

      (ii) The offending Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe.

   (b) In addition, the Ethics Officer shall notify the Office of General Services of the finding of non-responsibility[2].

2. Upon finding that a member, officer or employee of the Authority has knowingly violated this Policy, the Statutes or any other applicable procurement disclosure standards affecting members, officers or employees of the Authority, the Ethics Officers shall immediately notify the Chair of the Board of the Authority. The offending member, officer or employee shall be subject to the sanctions described in the Authority's Code of Ethics.

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[2] A second finding of non-responsibility under the Statutes within four (4) years of a determination of responsibility shall result in the Offerer (along with subsidiaries and any other related or successor entities) being rendered intelligible to submit proposal on or be awarded Procurement Contract for a period of four (4) years from the date of the second final determination on non-responsibility, unless the special circumstances outlined in Section (1) (a) of this Article 10 exist.

ARTICLE 11

PROCUREMENT POLICY FOR PURCHASES LESS THAN THE BID THRESHOLDS

This Article sets forth the policies and procedures of the Wayne County Water and Sewer Authority to meet the requirements of NY Public Authorities Law Section 1199-qq which requires that the Authority comply with Section 103 of the General Municipal Law (requiring competitive bidding) as amended from time to time (as of 2011, the thresholds were $20,000 for purchase contracts and $35,000 for public works contracts.)[2]

1. General Method of Purchasing: Any employee or Board member shall present a request to the Authority Board, who shall accept or deny the request as a matter of record in the board minutes. An explanation of denial will be written as part of the board minutes.

2. Procedures for the Purchase of Commodities, Equipment, or Goods:

DOLLAR LIMIT	**PROCEDURE**
$1 - $1,000	at the discretion of the department head
$1,001 - $2,500	2 verbal quotes
$2,501 - $6,000	2 written quotes
$6,001 - $19,999	3 written quotes

3. Other purchases:

Insurance	Quote at every renewal period
Emergencies	Department Head Approval/Board Notification
Professional Services	Board Approval
Sole Source	Board Approval

4. Awards to other than low bidder: Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible offerer, with the rationale/reason for rejection of the lowest price.

5. Professional Services: Professional services or services requiring special or technical skill, training or expertise must be chosen based on accountability, reliability, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

[2] These thresholds are in effect until June 1, 2028, unless extended by the state legislature.

In determining whether a service fits into this category, the Board should take into consideration the following: (a) whether the services are subject to State licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and Authority officials. Professional or technical services shall include but not be limited to the following: services of an attorney, physician, engineer engaged to prepare plans, maps and estimates, insurance broker, certified public accountant, investment management services, printing services involving extensive writing, editing or art work, computer software or programming services for customized programs, services involved in substantial modification and customizing of pre-packaged software, and SCADA specialists.

6. Failure to Comply: The failure to fully comply with the provisions of this resolution shall not be grounds to void any action taken, or give rise to an action against any Authority employee. Documentation is required of each action taken in connection with each procurement.

ARTICLE 12
PURCHASE ORDER POLICY AND PROCEDURE

1. Any purchase made over the amount of $500.00 needs to have pre-approval in the form of a purchase order, signed by either the Executive Director or Director of Operations. (See exceptions below)

2. When a purchase order is prepared and authorized, the requester may keep the yellow copy for his/her records or given to the vendor, while the white and pink copies are returned to the Accounting Office. The white copy will be attached to the receiver and/or invoice. The pink copy will be filed in the master purchase order book.

3. The following information is required to be on the purchase order: Date, vendor name, quantity and description of item(s) ordered, dollar amount (s), job location if applicable and general ledger code (if known.)

4. When the items are received, the receiver/packing slip is turned into the Accounting Office. At that time, the receiver/packing slip is matched up with the white copy of the purchase order. When the invoice is received, it is attached to the receiver/packing slip and purchase order. A voucher is prepared and given to either the Executive Director or Director of Operations for final approval.

   Recurring purchases such as: utilities, monthly water purchases, dental, health, gasoline, propane, sludge hauling, legal & engineering services, refuse disposal, auto parts, payroll services, petty cash, auto repairs under $500 and sole source providers will not require a purchase order.

5. Blanket Purchase orders will be issued the beginning of each month to certain vendors, as per Appendix "C ". Equipment purchases (items that would be capitalized) from any of these vendors will require a separate purchase order. Auto repairs over $500 will also require a purchase order.

ARTICLE 13

"PIGGYBACKING" EXCEPTION[3] TO COMPETITIVE BIDDING

Pursuant to GML § 103(16), in lieu of complying with competitive bidding requirements, the Authority may purchase apparatus, materials, equipment or supplies, or contract for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies through the use of a contract let by the United States of America or an agency thereof, any state, or any other county or political subdivision or district therein (i.e., the Authority may "piggyback" onto a contract let by another governmental entity).

In order to take advantage of the Piggybacking Exception, the general requirements[4] set forth below must be met:

(a) The contract must have been made available for use by other governmental entities (typically by inclusion in the contract of a clause extending the terms and conditions of the contract to other governmental entities); and

(b) The contract must have been let in a manner that constitutes competitive bidding consistent with New York law;[5]

(c) The terms of the contract should be carefully reviewed for consistency with New York law and regulations (which may for example prohibit advance payment for goods and services);

(d) The payment to the contract vendor must be subject to standard procedures for claims processing;

(e) A cost-benefit analysis should be used to confirm that "piggybacking" is cost justified in light of all pertinent cost factors including any potential savings on administrative expense;

(f) The Authority must maintain appropriate documentation (including copies of the contract, an analysis showing compliance with the criteria set forth in this Article 13 and a cost saving analysis) to allow a thorough review of any decision to use "piggybacking" by Authority

[3] This exception is effective until June 30, 2026, unless extended by the state legislature.
[4] *See* NY State Office of the Comptroller Memorandum "New 'Piggybacking' Law – Exception to Competitive Bidding," November 2012.
[5] Note, that the NY Comptroller has opined that this requirement does not mean that the contract be let precisely according to NY GML§ 103, rather, the contract must be let in "harmony or general agreement with" competitive bidding principles. NY State Office of the Comptroller Memorandum "New 'Piggybacking' Law – Exception to Competitive Bidding," November 2012. Note, 2025 NYS Supreme Court slip opinion holding that piggybacking does not apply to construction contracts (*Daniel J. Lynch, Inc. v. Board of Ed. of the Maine-Endwell Central School Dist. 86 M. 3d 507).*

officials, external auditors and regulators; and

(g) With respect to contracts let by non-New York entities, the following elements should also be present: (i) public solicitation of bids or in the case of best value, offers, (ii) submission of sealed bids or offers, or analogous procedures to secure and preserve the integrity of the process and confidentiality of the bids or offers submitted, (iii) preparation of bid specifications, or a similar document that provides a common standard for bidders or offerors to compete fairly, and (iv) award to the lowest bidder who materially or substantially meets the bid specifications and is determined to be a responsible bidder, or in the case of a best value process, an award to the responsive and responsible offeror.

ARTICLE 14

"PREFERRED SOURCE" EXCEPTION TO COMPETETIVE BIDDING

Pursuant to State Finance Law § 162(4), the Authority is required to purchase certain approved products and services from "preferred sources," provided they meet the Authority's needs for form, function and utility. Preferred Sources include veterans, not-for-profit organizations that serve and employ people who are blind and severally disabled, and the correctional industries program to DOCS. Procurement from such preferred sources takes precedence over all other sources of supply and is an exception to the competitive bidding requirements otherwise applicable under GML §103. Purchases from preferred sources shall be made from the List of Preferred Source Offerings and in compliance with the NYS Procurement Bulletin-Preferred Source Guidelines, as promulgated and amended by the Office of General Services.

ARTICLE 15

AWARD ON THE BASIS OF BEST VALUE

Pursuant to GML §103, purchase contracts may be awarded by the Authority to a responsive and responsible offerer on the basis of "best value" (i.e. a "competitive offering"), instead of to the lowest responsible bidder. This includes contracts for service work, but excludes contracts necessary for the completion of a public works contract covered by the prevailing wage provisions of article 8 of the Labor Law, such as for building construction.

"Best value" is defined for this purpose as a basis for awarding contracts "to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers." In assessing best value, non-price factors can be considered by the Authority when awarding the purchase contract. Non-price factors can include, but are not limited to, reliability of a product, efficiency of operation, difficulty/ease of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance, and experience of a service provider with similar contracts. The basis for a best value award by the Authority, however, shall reflect, whenever possible, objective and quantifiable analysis. For purposes of best value, a responsive offeror is an offeror meeting the minimum specifications. In

assessing whether an offeror is responsible, the Authority should consider an offeror's capacity and financial ability to complete the contract, accountability, past performance, reliability and integrity.

In order to make an award on the basis of "best value," the Authority must be prepared to show that: (1) the offeror is responsive and responsible; and (2) the Authority applied objective and quantifiable standards, whenever possible, to determine that the offer optimizes quality, cost and efficiency. The Authority shall have a written justification if it bases a best value award on criteria that are not objective and quantifiable.

The best value specification shall describe the general manner in which the evaluation and award of offers will be conducted by the Authority and, as appropriate, identify the relative importance or weighting of price and non-price factors. In evaluating and determining to accept a higher priced offer, the Authority shall use a cost-benefit analysis to show quantifiable value or savings from non-price factors that offset the price differential of the lower price offers, and maintain documentation of this analysis as part of the Procurement Record.

DISTRIBUTION OF THIS POLICY

This policy shall be distributed annually to the Authority's members and officers. It shall also be distributed annually to those employees that have the ability to affect any Procurement. It shall also be distributed to each new member, officer and applicable employee as soon as practicable following commencement of such position.

ADOPTION OF AND AMENDMENTS TO PROCUREMENT POLICY

Date	**Action Taken**
September 26, 2006	Adopted
March 22, 2011	Amended to add *Procurement Policy for Purchases Less than the Bid Procurements* as Article 11 and *Purchase Order Policy and Procedure* as Article 12
November 22, 2011	Amended to reword Article 11 to reflect new bidding thresholds
January 22, 2013	Amended to add Article 13--"Piggybacking" Exception to Competitive Bidding.
January 28, 2014	Amended to add paragraph 13 to Article 1 to allow the option of submitting bids in electronic format. Amended to revise Article 13 to include references to Best Value option. Amended to add Article 14 –Award on the Basis of Best Value.
February 26, 2019	Amended to add a new Article 14 regarding purchases from "Preferred Sources" as an exception to Competitive Bidding. Amended to renumber former Article 14 as Article 15.
February 22, 2022	Updated to reflect extension of legislation referred to in footnotes
February 27, 2024	Updated to bring current various expiration dates referenced in footnotes.
February 25, 2025	Updated Article 11, Paragraph 2, Procedures for the Purchase of Commodities, Equipment or Goods: Dollar Limit for purchases at the discretion of the department head raised to $1,000 and the requirement for two verbal quotes

	be changed to $1,001 to $2,500. Appendix C updated to list the current vendors who are issued a blanket purchase order
February 24, 2026	Updated Footnote 5 of Article 13, Piggyback Exception to Competitive Bidding, to include the 2025 NYS Supreme Court slip opinion holding that piggybacking does not apply to construction contracts.

Appendix "A"

Form of Offerer's Affirmation of Understanding and Agreement/Certification of Compliance

Offerer affirms that it understands and agrees to comply with the procedures of the Authority relative to permissible Contacts as required by State Finance Law §139-j(3) and §139-j(6) and certifies that all information provided to the Authority with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

_____

_____

Appendix "B"

Offer 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 international provisions 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 international 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: _____ (Signature) Date: _____

Name: _____

Title: _____

State Finance Law §§ 139-j and 139-k
Model Forms/Internal Procedures for Review and Investigation[1]

Form 1 Model Form for report of contact under State Finance Law § 139-k (4)

Form 2 Model Form to refer a contact for review and investigation under State Finance Law § 139-j (9)

Form 3 Model Form for use by non-procuring governmental entity to refer a contact for review and investigation by the procuring governmental entity under State Finance Law § 139-j (9)

Form 4 Model Internal Process for review and investigation in accordance with State Finance Law § 139-j (8), and (9) and (10).

[1]Promulgated by New York State Advisory Council on Procurement Lobbying.

Form 1

Authority Record of Contact

Under State Finance Law § 139-k (4)

Was the person making the Contact informed that the Contact would be documented?

[ ] Yes [ ] No

To: Procurement Record Regarding _____

_____

Procurement Contract Number _____

From: _____

(Name and Title)

Name of Governmental Entity: _____

Date: _____

Subject: Record of Contact under State Finance Law § 139-k (4)

I had Contact with the below named individual regarding the above identified procurement. The term "Contact" is defined in State Finance Law § 139-k (1) (c). In accordance with State Finance Law §139-k (4), the following information was obtained.

Name: _____

Address:

_____

_____

Telephone Number: _____

Place of Principle Employment: _____

Occupation: _____

Is the above named person or organization the "Offerer" in this governmental procurement? (Please circle): Yes No

If no, was the above named person or organization retained, employed or designated by the "Offerer" to:

- Appear before the governmental entity about the governmental procurement? (Please circle) Yes No
- Contact the governmental entity about the governmental procurement? (Please Circle) Yes No

List date(s) of Contact: _____

_____
_____

(Add additional pages as necessary)

Optional

Summarize the form (e.g., email, letter, conversation) and topic of the communication on each date of Contact:

_____
_____
_____
_____
_____

(Add additional pages or copies of written communication as necessary)

Form 2
Model Form to Refer a Contact for Review and Investigation under State Finance Law §139-j(9)

To: Authority's Ethics Officer

By: Name and Title: _____

Telephone Number: _____

Date: _____

This Contact is being referred for further review and investigation in accordance with the process required under State Finance Law §139-j (9) for a determination whether this Offerer can be found responsible for purposes of contract award.

Offerer: Name of Person who made the Contact being referred: _____

Name of Business: _____

Date of Contact: _____

Description/Reference information of Governmental Procurement:

_____

Is this a Governmental Procurement undertaken by another Governmental Entity?

Yes ☐ No

If yes, please list the procuring Governmental Entity:

_____

Description of Contact:

_____

_____

_____

_____

(Add additional information as necessary)

☐ A copy of the Record of Contact is attached.

Form 3

Model Form Use by a Non-Procuring Governmental Entity to Refer a Contact for Review and Investigation by the Procuring Governmental Entity under State Finance Law §139-j(9)

To: [reference responsible individual at Procuring Governmental Entity]

Procuring Governmental Entity

By: _____

Name and Title

Non-procuring Governmental Entity

Date: _____

It appears that a Contact may have been made in violation of State Finance Law §139-j (3) and (4) regarding a procurement by your agency. This Contact is being referred to you for further review and investigation in accordance with the process required under State Finance Law §139-j(9) for a determination whether this Offerer can be held responsible for purposes of contact award.

We are available to provide whatever assistance you deem appropriate.

Offerer: _____

Name of Person who made the Contact being referred

_____

Name of Business

_____

Date of Contact

_____

Description of Contact

_____

Description/Reference Information on Governmental Procurement

Person Contacted: _____

Description of Contact:

_____

_____

_____

(Add additional information as necessary)

☐ A copy of the Record of Contact is attached.

Form 4
Model Process for the Review and Investigation in accordance with State Finance Law §139-j (8), (9) and (10)

Background:

State Finance Law §139-j (8), (9) and (10) obligate a Governmental Entity to establish a process for the review and investigation of possible violations of State Finance Law §139-j (3) regarding permissible Contacts. In addition to referring for review and investigation an impermissible Contact regarding a procurement by a Governmental Entity, State Finance Law §139-j(8) obligates a Governmental Entity to refer allegedly impermissible Contacts about another Governmental Entity's procurement to such other entity. For example, if Vendor A Contacts Governmental Entity 1 about a Governmental Procurement of Governmental Entity 2 during the restricted period, then Governmental Entity 1 must refer the impermissible Contact to Governmental Entity 2 for review and investigation.

Instructions:

The model documents were developed to assist a Governmental Entity in establishing a process for the review and investigation of possible violations of State Finance Law §139-j (3) regarding permissible Contacts. State Finance Law §139-j(10)(a) requires that upon an allegation of violation of the provisions of subdivision three, if sufficient cause exists to believe that such allegation is true, the Governmental Entity give the Offerer reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. The documents that follow outline a model process that is more comprehensive than the language provided by the statute. Note that the review process may vary on an agency by agency basis. For example, one agency may elect to send the allegation directly to the ethics officer, while another may direct such allegation through supervisors and/or responsible executive staff. It is recommended that a copy of the Governmental Entity's process for review and investigation be kept on file and available to an Offerer upon request.

The following forms can be used by staff to refer a possibly impermissible Contact for review and investigation.

Form 8, *Model Form to Refer a Contact for Review and Investigation under State Finance Law* §139-j (9), can used by staff to submit the required information about any allegedly impermissible Contact for review and investigation. Form 8 is designed for the referral of all impermissible Contacts- whether it is a procurement conducted by that entity or a different Governmental Entity.

Form 9, *Model Form for Use by a Non-Procuring Governmental Entity to Refer a Contact for Review and Investigation by the Procuring Governmental Entity under State Finance Law* §139-

j(9), can be used by the responsible official at a Non-Procuring Governmental Entity to advise the responsible official at the Procuring Governmental Entity of an allegation of an impermissible Contact.

Process:

State Finance Law §139-j(8) states that any member, officer or employee of a governmental entity who becomes aware that an Offerer has violated the provisions of State Finance Law §139-j(3) shall immediately notify the ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing and investigating the matter. Please see [reference to the Governmental Entity's internal document(s) setting forth its policy on permissible contacts] for detailed information regarding permissible and impermissible Contacts under State Finance Law §139-j (3). The [reference to the person(s) responsible for the review and investigation] is responsible for the review and investigation of possible violations of State Finance Law §139-j (3). The [reference to responsible person(s)] can be reached at [with specific information about how to reach]. If an officer or employee has reason to believe that an Offerer possibly made an impermissible Contact, such officer or employee shall refer the matter to the [reference responsible person(s)], providing specific information to facilitate the review. Form 8, *Model Form to Refer a Contact for Review and Investigation under State Finance Law* §139-j (9), may be used to submit such information. The material submitted for review and investigation shall include, but not be limited to, the Record of Contact and other information relevant to the procurement. In accordance with the law, such referral shall be made immediately after the member, officer or employee becomes aware of the violation.

Preliminary Review:

Upon receipt, the [reference responsible person(s)] shall commence an internal review of the allegations regarding the possibly impermissible Contact to determine if sufficient cause exists to believe the allegation is true. Such internal review shall be commenced immediately. It is anticipated that such internal review will generally be commenced within two (2) business days of receipt. Such internal review may consist of, but not be limited to, an examination of the procurement, interviews with the officer or employee, and review of submitted information. This state shall be referred to as the "Preliminary Review." The focus during the Preliminary Review is whether there is sufficient cause to believe that an impermissible Contact occurred. Such Preliminary Review shall be diligently pursued until completed.

If as a result of the Preliminary Review, the [reference responsible person(s)] determines that sufficient cause does **not** exist to believe that such allegation is true, he or she shall so advise the officer or employee and close the matter. A writing shall be prepared and set forth the conclusion that sufficient cause did not exist to believe the allegation was true. Such writing does not have to be part of the procurement record and shall be maintained as part of the reviewer's files.

If as a result of the Preliminary Review, the [reference responsible person(s)] determines that sufficient cause does exist to believe that such allegation is true, then he or she shall provide the Offerer with written notification regarding the possible impermissible Contact. This stage shall be referred to as the "investigation."

Investigation:

The written notification regarding the possibly impermissible Contact provided to the Offerer by the [reference responsible person(s)] shall include the following information:

1. [Insert name of Governmental Entity] has undertaken a preliminary review and has determined there is sufficient cause to believe that the allegation regarding an impermissible Contact is true and that an investigation has been commenced in accordance with State Finance Law §139-j(3);

2. The nature and details about the alleged impermissible Contact;

3. If a determination is made that the impermissible Contact was knowing and willful, State Finance Law requires a determination that the Offerer is non-responsible and such Offerer and its subsidiaries, and any related or successor entity with substantially similar functions, management, board of directors, officers and shareholders shall not be awarded the contract (absent a specific statutory finding of need);

4. If a determination of non-responsibility is made under State Finance Law §139-j, then the Offerer will be placed on a public listing of non-responsible offerers for four years from the date of the determination;

5. While on the public listing of non-responsible offerers, the Offerer may continue to submit proposals and be eligible for contact awards by any Governmental Entity;

6. If there is a second determination of non-responsibility under State Finance Law §139-j within a four-year period, then the Offerer will be debarred, and ineligible to submit proposals or be awarded a procurement contact for a four year period from the date of the second such determination by any governmental entity as such term is defined under State Finance Law §139-j (1) (a). Further, the Offerer will be placed on a public listing of debarred offerers;

7. In accordance with State Finance Law §139-j (10) (a), Offerer is provided with an opportunity to be heard in regard to this allegation. Offerer should be advised if the Governmental Entity will have an attorney in attendance and that the Offerer is invited, but not required, to bring an attorney to the meeting. With the approval of the Governmental

Entity, Offerer may elect, however, to submit documents rather than appear in person to respond to the allegations. (It is optional whether the meeting is set up in the letter.)

8. A date certain for responding to the allegations. Offerer should be advised that the failure to respond to the letter may be deemed a failure to cooperate. State Finance Law §139-j(10)(b) provides that the Governmental Entity shall not award a contract to an Offerer that fails to timely disclosure accurate and complete information or cooperate in administering this provision (absent any specific statutory finding of need).

The exact scope and nature of the needed investigation depends upon the nature of the allegation. The focus of the investigation is multi-fold: first, there must be an investigation and a determination that the impermissible Contact occurred; second, there must be an investigation and a determination that impermissible Contact was made by an Offerer (Note: definition of Offerer is broad and includes the Offerer and also those employees, agents, consultants or other persons acting on the Offerer's behalf); and third, there must be an investigation and a determination that the Offerer knowingly and willfully violated the provisions of State Finance Law §139-j(3).

Results of the Investigation:

A. If as a result of the Investigation, the [reference responsible person(s)] determines that:
   1. No impermissible Contact occurred; or
   2. The impermissible Contact was not by the Offerer; or
   3. The offerer's impermissible Contact was not knowingly and willful

then the [reference responsible person(s)] shall advise the appropriate staff that the allegation should not form the basis for a finding of non-responsibility under State Finance Law §139-j or 139-k. A writing shall be prepared to set forth the results of the Investigation. Such writing does not have to be part of the procurement record and shall be maintained as part of the reviewer's files. A written determination shall be sent to the Offerer, setting forth the basis for the determination.

B. If as a result of the Investigation, the [reference responsible person(s)] determines that:
   1. The Offerer failed to timely disclose accurate and complete information; or
   2. The Offerer failed to cooperate with the Governmental Entity in the administration of this provision.

then the [reference responsible person(s)] shall advise the appropriate staff that the failure to timely disclose accurate information or cooperate shall be considered by the Governmental Entity in its responsibility determination. A writing shall be prepared to set forth the results of the Investigation. Such writing shall be part of the procurement record and shall be maintained as part of the reviewer's files. A written determination shall be sent to the Offerer, setting forth the basis for the determination and that no award is allowed to the Offerer unless the Governmental Entity can satisfy the statutory requirements for awarding the contract to the Offerer.

C. If as a result of the Investigation, the [reference responsible person(s)] determines that:
   1. An impermissible Contact occurred; and
   2. The impermissible Contact was by the Offerer; and
   3. The Offerer's impermissible Contact was knowing and willful

Then the [reference responsible person(s)] shall advise the appropriate staff that there has been a finding that the Offerer knowingly and willfully violated State Finance Law §139-j (3) and in accordance with the law, there must be a determination that the Offerer is non-responsible and cannot be awarded the contract, unless the Governmental Entity can satisfy the statutory requirements for awarding the contract to the Offerer. A writing shall be prepared to set for the results of the Investigation. Such writing shall be part of the procurement record and shall be maintained as part of the reviewer's files. A written determination shall be sent to the Offerer, setting forth the basis for the determination.

Allegations of an Impermissible Contact regarding another Governmental Entity's Procurement:

If the allegation of impermissible Contact referred by staff for review and investigation involves another Governmental Entity's governmental procurement (referred to as "Procuring Governmental Entity"), the [reference responsible person(s)] shall immediately forward such information to the appropriate individual at the Procuring Governmental Entity for review and investigation at the Procuring Governmental Entity. The referring Governmental Entity should provide appropriate assistance to the Procuring Governmental Entity. Form 9, *Model Form for Use by a Non-procuring Governmental Entity to Refer a Contact for Review and Investigation by the Procuring Governmental Entity under State Finance Law* §139-j(9), can be used to refer an allegation of an impermissible Contact to the Procuring Governmental Entity.

Appendix “C”

The following vendors will be issued a blanket purchase order:

Altra Rental & Supply Co
American Pool Supply
Blair Supply Corp.
Core & Main
Country Max
DeLue Automotive
Dolomite/Rochester Asphalt
Santelli Lumber
T. Mina
Viele’s, Inc.
F. W. Webb