ATTACHMENT IV: GUIDELINES

NYS UNIFIED COURT SYSTEM

PROCUREMENT LOBBYING ACT REQUIREMENTS

The Procurement Lobbying Act of 2005 (State Finance Law §§139-j and 139-k) imposes new requirements on the New York State Unified Court System's (UCS) procurement process. The requirements include: restrictions on contacts by vendors to UCS personnel, mandatory documentation by UCS of certain vendor contacts, and additional vendor responsibility, disclosure and submission requirements. The requirements are described in detail below.

CONTACT RESTRICTIONS AND CONTACT RECORDING:

Except for a few types of contacts, vendors are prohibited from contacting anyone other than the contact person(s) designated in the RFB/RFP about the procurement during the restricted period of the procurement. The restricted period starts on the Issue Date of the RFB/RFP (see RFB/RFP cover sheet), which is the same date that notice of the procurement opportunity appears in the New York State Contract Reporter. The restricted period ends on the date that the Office of the State Comptroller (OSC) approves the contract. The only contacts that vendors can make to other than the designated contact person(s) are: participation in pre-bid conferences, contract negotiations after a tentative contract award and contacts related to certain kinds of complaints, including grievance proceedings. Vendors are also prohibited from making contacts that would result in a violation or attempted violation of the conflict of interest rules applicable to judges (part 100 of the Rules of the Chief Administrator of the Courts) and non- judicial employees (Section 50.1 of the Rules of the Chief Judge). UCS employees are required to document certain vendor contacts and the documentation must include certain information about the person making the contact, including name, ad-dress, telephone number, occupation and place of principal employment. The documentation requirement applies to vendor contacts that are intended to influence certain aspects of the procurement and includes some permissible and/or routine contacts such as submission of a bid and participation in a pre-bid confer-ence, as well as some contacts made to the designated contact person(s).

VENDOR SUBMISSIONS & VENDOR RESPONSIBILITY:

Vendors are required to submit the following with their bids or proposals:

- affirmation of understanding and agreement to comply with the Procurement Lobbying Act's contact restrictions (UCS 421); and
- disclosure of prior findings of non-responsibility made against the vendor by any government agency during the four-year period preceding the bid or proposal submission date for:

  1. violations of the Procurement Lobbying Act's contact restrictions; or
  2. any intentional provision of false or incomplete information to a government agency (regardless of whether or not the false or incomplete information was related to the Procurement Lobbying Act - UCS 420).

Vendors must also certify that the disclosure provided on UCS 420 is complete, true and accurate. In addi-tion, all UCS contracts are required to contain a clause permitting UCS to terminate the contract if the vendor's certification is found to be intentionally false or intentionally incomplete.

UCS is required to make a determination of vendor responsibility with regard to the vendor's compliance with the Procurement Lobbying Act in addition to the vendor responsibility determination that is made based on the Vendor Responsibility Questionnaire in Attachment III.

ATTACHMENT IV: INSTRUCTIONS

NYS UNIFIED COURT SYSTEM

PROCUREMENT LOBBYING ACT REQUIREMENTS

Instructions to Bidders/Vendors

Pursuant to the Procurement Lobbying Act of 2005, please fill out the following 2 forms:

Attachment IV (2 forms):

1. ☐ UCS 420: Disclosure of Prior Non-Responsibility Determinations
Pursuant to State Finance Law 139-k(2) *(2 pages);*

and

2. ☐ UCS 421: Affirmation of Understanding and Agreement
Pursuant to State Finance Law 139-j(6)(b) *(1 page)*

Please send the <u>2 ORIGINAL FORMS</u> (3-pages total) to the UCS-designated person below:

_____

_____

_____

ATTACHMENT IV: FORMS

NYS UNIFIED COURT SYSTEM

The Procurement Lobbying Act requires these two forms (UCS-420 and UCS-421) accompany all quotes/bids submitted to the UCS in excess of $15,000:

- **UCS 420:** Disclosure of Prior Non-Responsibility Determinations *(2 pages)*

- **UCS 421:** Affirmation of Understanding and Agreement *(1 page)*

BACKGROUND:

The Procurement Lobbying Act (State Finance Law §139-k) obligates the New York State Unified Court System (UCS) to require bidders/vendors to disclose any finding of non-responsibility made against them within the previous four (4) years by any governmental entity based on: (a) a violation of the Procurement Lobbying Act's contact restrictions (State Finance Law §139-j(3)); or (b) the intentional provision of false or incomplete information to a governmental entity. UCS is required to consider any failure of the bidder/vendor to timely disclose complete and accurate information concerning these prior determinations of non-responsibility in making its own required determination of vendor responsibility with regard to the vendor's compliance with the Procurement Lobbying Act. In addition, UCS is prohibited by the Act from awarding a contract to a bidder/vendor that (i) fails to timely disclose accurate or complete information concerning the prior determinations of non-responsibility required to be disclosed; or (ii) knowingly and willfully violates the Act's contract restrictions, unless a finding is made: (a) that the award of the contract to the bidder/vendor is necessary to protect public property or public health or safety; and (b) that the bidder/vendor is the only source capable of supplying the required goods/services within the necessary timeframe. See State Finance Law §§139-j(10)(b) and 139-k(3).

ATTACHMENT IV: UCS 420 DISCLOSURE

NYS UNIFIED COURT SYSTEM

**DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS
PURSUANT TO STATE FINANCE LAW §139-k(2)**

Name of Individual or Entity (Seeking to Enter into the Procurement Contract)
Address
City　　　　　　　　　　　　　　　**State**　　　　　　**Zip**
Name of Person Submitting this Form　　　**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 based on either of the following:

   (a) A violation of State Finance Law §139-j.　　　　(Please check)　YES　　NO

   (b) The intentional provision of false or incomplete information to a Governmental Entity.

   　　　　　　　　　　　　　　　　　　(Please check)　YES　　NO

2. If you checked "Yes" to any of the above questions, please provide details regarding the finding of Non-Responsibility below.

_____
Governmental Entity:

_____
Date of Finding Non-Responsibility:

_____
Basis of Finding Non-Responsibility *(Explain. Add Additional Pages as Necessary)*

_____

_____

_____

_____

_____

_____

(Add Additional Pages as Necessary)

Continued

3. 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?

<div align="right">(Please check)   YES   NO</div>

4. 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)

Bidder/Vendor certifies that all information provided to the New York State Unified Court System with respect to the disclosure required by the State Finance Law §139-k is complete, true and accurate.
By (Signature)   **Date**
Name (Please Print)
Title

ATTACHMENT IV: UCS 421 AFFIRMATION

NYS UNIFIED COURT SYSTEM

**AFFIRMATION OF UNDERSTANDING AND AGREEMENT
PURSUANT TO STATEFINANCE LAW §139-j(3) and §139-j(6)(b)**

Background:

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.

Bidder/Vendor affirms that it understands and agrees to comply with the procedures of the New York State Unified Court System concerning permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).
By (Signature)   **Date**
Name (Please Print)
Title
Bidder/Vendor Name
Bidder/Vendor Address