

**Offerer's Affirmation of Understanding of and Agreement Pursuant to  
State Finance 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.*

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).

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_  
\_\_\_\_\_

## **Offeror Disclosure of Prior Non-Responsibility Determinations**

*Note: Government Entities may wish to consider integrating this language in their existing forms.*

### **Background:**

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offeror 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. The terms “Offeror” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offeror 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 Offeror that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offeror is necessary to protect public property or public health safety, and that the Offeror is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

**Offerer Disclosure of Prior Non-Responsibility Determinations (Continued)**

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 Government 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 question.

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 on 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 and attach additional pages as necessary.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-responsibility: \_\_\_\_\_

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 and attach additional pages as necessary.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding: \_\_\_\_\_

Offeror certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: \_\_\_\_\_ Date: \_\_\_\_\_

**Offeror's Certification of Compliance with State Finance Law §139-k(5)**

**Background:**

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offeror that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

**Offeror Certification**

*I certify 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: _____
Contractor Name: _____
Contractor Address: _____
_____