

Albany Parking Authority Policy on State Finance Law §§139-j and 139-k (Procurement Lobbying)

Pursuant to State Finance Law §§139-j and 139-k, certain restrictions exist on communications between a governmental entity (e.g., the APA and other government entities) and an offerer/bidder during the procurement process for all contracts involving an annual expenditure greater than \$15,000. An offerer/bidder is restricted from making “contacts” from the earliest notice of intent to solicit offers (in most instances this would be the release of an RFP) through final award and approval of the Procurement Contract by the APA (“Restricted Period”) to other than a staff member (or members) designated by the APA unless it is a contact that is included among certain statutory exceptions. APA employees are also required to obtain certain information when contacted during the restricted period – this involves completing a “APA Record of Contact” form and placing it in the relevant Procurement Record.

The APA must also make a determination of the responsibility of offerer/bidders. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, an offerer/bidder is debarred from obtaining governmental Procurement Contracts.

Additionally, certain affirmations must be provided to the APA by bidders and certain provisions must be contained within any contract/award resulting from an RFP.

1. The APA must obtain from all offerers an affirmation of understanding and agreement to comply with the restrictions regarding permissible contacts during the restricted period.
2. The APA must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for Procurement Contracts.
3. The APA must obtain from all offerers a certification that the information is complete, true and accurate regarding any prior findings of non-responsibility.

All RFPs involving an annual estimated expenditure of more than \$15,000 shall contain a summary of the above requirements and obtain the required affirmations from bidders.