



ERIE COUNTY WATER AUTHORITY

PURCHASING POLICIES

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POLICY

Mission Statement

The Erie County Water Authority purchases goods and services according to its enabling legislation and charter granted by the State of New York. The purpose of this Policy and Guideline is to assist each department in the procurement process, while protecting the Erie County Water Authority and its rate payers by promoting fairness in contracting with the business community.

The Authority maintains an Open Vendor Policy and welcomes any and all potential bidders. MBE/WBE/DBE must be certified by the State of New York and/or the County of Erie for acceptance. The Authority will consider all such business interests.

The Authority's Central Purchasing Office oversees a bidding process for informal purchases and supervises all purchasing. The Office of the Secretary to the Authority supervises all formally bid purchases.

The Authority welcomes purchases through contracts let by the County of Erie and State of New York Office of General Services.

The Guidelines are a deliberate effort to balance the need to preserve open and fair competition with the goal of allowing each department flexibility to procure in a manner which contributes to the fulfillment of their operational mission.

CODE OF ETHICS

The Erie County Water Authority has adopted a Code of Ethics Policy, which all buyers are responsible for being familiar with and must adhere to in the procurement process. The policy can be found at ecwa.org.

Open Vendor Policy

The Erie County Water Authority invites all vendors to bid in an open-competitive environment. A vendor may forward to the Central Purchasing Department, by way of U.S. mail, e-mail, internet, or fax, all relevant information pertaining to their enterprise. A new Vendor Application form is available on the ECWA website. A list of approved vendors is developed from this information. Requests for bids or quotes will be solicited off this list. Buyers select appropriate vendors from the Vendor List for bids and quotes. Vendors are required to meet our credit and insurance requirements. Certificates of Insurance are required to be current and approved by Risk Management.

Freedom of Information

The Erie County Water Authority maintains and adheres to all related Freedom of Information regulations. To ensure proper response, requests should be made in writing to the Secretary of the Authority. Telephone requests on results of informal purchases may be made to buyers. Response by this method is at the convenience of the Authority.

Disadvantaged Business Opportunity

It is the desire of the Erie County Water Authority to promote and assist participation by DBEs, MBEs and WBEs and facilitate a fair share of the awarding of contracts.

The Director of EEO shall maintain a list of all MBE, WBE and DBE entities certified to perform public work, supply items for purchase contracts or perform personal or professional services of a kind and nature which may be needed by the Authority.

Buyers will be responsible for referencing such list prior to the publication of a notice of procurement opportunity or informal solicitation to determine the availability of certified DBE, MBE and WBE entities.

PROCUREMENT DISCLOSURE POLICY

Vendor and Employee Responsibility

It is the responsibility of all Erie County Water Authority vendors and employees to understand the Policy and State statutes on Procurement Lobbying and recognize that during the Restricted Period, all contacts with vendors must be through the designated contact person or Procurement Officer exclusively.

Purpose

As a public benefit corporation, the Erie County Water Authority (the “Authority”) must conduct its operations in a manner that best serves the interests of its rate payers and the general public. The Authority expects all members, officers and employees to comply and cause the Authority to adhere to all the laws and regulations governing business transactions, including State Finance Law 139j and 139k (the “Statutes”).

This Procurement Disclosure Policy is intended to assure the Authority’s procurement process conforms to the requirements of the statutes.

Article 1 – Definitions

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.

Contact

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.

Governmental Entity

Any department, board, bureau, commission, division, office, council, committee or officer of the public authority and/or public benefit corporation.

Offerer

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

Procurement Contract

Any contract or other agreement for an Article of Procurement involving an estimated annualized expenditure in excess of Ten Thousand Dollars (\$10,000). Grants, Article 11b 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.

Procurement Officer

The authorized contact person for a Governmental Procurement.

Procurement Record

The procurement record is the collection of all documents related to a purchase. Documentation of contacts during the Restricted Period are attached to the Project File, and/or the Purchasing System.

Proposal

Any bid, quotation, offer, or response to the Authority's solicitation of submissions related to a procurement.

Restricted Period

The period of time commencing when by way of resolution the Board of Commissioners authorize to advertise and/or solicit a Request for Proposal, or bid and/or any other method of soliciting a response from Offerers, intending to result in a procurement contract, and ending with the contract awarded by the Board.

Solicitation Materials

Any written materials or invitations, electronic or otherwise.

Article 2 – Ethics Officer

The Ethics Board shall be the voting members of the Board of Commissioners. On an annual basis, the voting members of the Authority shall appoint a Chairperson of the Ethics Board. For the purpose of this Policy, that person shall be designated as the "Ethics Officer."

Article 3 – Procurement Officers

For each and every governmental solicitation subject to this Statute, the Executive Director and/or Director of Administration shall recommend for Board approval a

“Procurement Officer”, who shall be the designated contact person to whom Offerers shall make all contacts during the Restricted Period.

Article 4 – Contacts by Offerers

All contacts between an Offerer and the Authority during the Restricted Period for each procurement contract (annualized in excess of \$10,000) shall be made through the applicable Procurement Officer, unless one of the following exceptions applies:

- (a) Submission of written proposals in response to a Request for Proposal, Invitation for Bid, or any other method of soliciting a response from Offerers intending to result in a procurement contract.
- (b) Submission of written questions to a designated contact set forth in any solicitation materials.
- (c) Participation in a pre-bid conference set forth in solicitation materials.
- (d) Complaints made in writing addressed to any empowered legal authority, or addressed to the Authority’s Board of Commissioners regarding the procurement process.
- (e) Contact by Offerers, who have been tentatively awarded and have been so notified, for the sole purpose of negotiating the contract.
- (f) Contact by an Offerer to designated Authority staff in which an Offerer requests the review of a procurement award.
- (g) Contact by an Offerer before the award with the Claims Representative/Risk Manager regarding insurance, and/or, with the Director of Equal Employment Opportunity regarding certifications, relative to meeting terms of the contract to insure that the contract obligations can be met.

Article 5 – Prohibited Offerer Activities

In addition to utilizing the designated Procurement Officer for all contacts with the Authority, the following additional rules apply to the Offerer:

- (a) Offerer should not attempt to influence the Authority’s procurement in a manner that would result in a violation of any State or Authority ethics or conflict of interest statute or policy.

- (b) Offerer is prohibited from contacting any member, officer, or employee of a governmental entity other than the Authority (see Law for exceptions) during the Restricted Period of a pending procurement.

(c) **Article 6 – Procurement Record**

The procurement record is the entire document or documents related to a purchase.

Article 7 – Required Disclosure

The Authority shall incorporate into its Solicitation Materials a summary of the policy and prohibitions of the Statutes, as well as any and all rules, regulations and standard Authority Policies and Procedures for said RFP, quotations or bid.

Article 8 – Requirements of the Authority Prior to Awarding Procurement Contracts

The Authority will make the final determination of award in accordance with its existing procurement procedures and in compliance with its Code of Ethics Policy, Conflict of Interest Policy, and State Finance Law provisions.

Article 9 – Procedure for Alleged Violation of Inappropriate Contacts

- (a) Any member, officer, or employee of the Authority who becomes aware that an Offerer may have violated this Policy or the Statutes shall immediately notify the Ethics Officer who shall immediately investigate.
- (b) If the Ethics Officer finds there is sufficient cause to believe the alleged violation has occurred, he/she shall provide the violating Offerer reasonable notice (in the form of a certified letter, return receipt requested) informing them of the allegations and providing them with the opportunity to be heard regarding said allegations.
- (c) Following the opportunity to be heard, if the Ethics Officer determines that the Offerer has knowingly and willfully violated this Policy, the aforementioned Statutes, or any other applicable procurement disclosure standards affecting members, officers, or employees of the Authority, the Offerer shall be subject to sanctions described in Article 10 hereof.
- (d) The Ethics Officer shall report violations to the ethics officer of the appropriate state agency responsible for reviewing or investigating such matters at the Authority and shall be designated as the person to receive similar communications.

Article 10 – Sanctions

Upon a finding by the Ethics Officer that an Offerer has knowingly and willfully violated this Policy, the aforementioned Statutes, or any other applicable procurement disclosure standards affecting 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 shall not be awarded the Procurement contract unless the following special circumstances exist:
 - i. The award to the offending Offerer is necessary to protect the public property or public health or safety; and/or
 - ii. The offending Offerer is the only source capable of supplying the required article of procurement within the necessary time frame.
- (b) In addition, the Ethics Officer shall notify the State Office of General Services of the finding of non-responsibility. A second finding of non-responsibility within a four-year period will render the Offerer and its subsidiaries ineligible to submit a proposal or to be awarded any Procurement Contract for a period of four (4) years from the date of the second finding of non-responsibility (unless a special circumstance as outlined in Section A of the State Finance Law).

Erie County Water Authority Report of Contact

Background

New York State Finance Law §139-k (4) obligates every Governmental Entity during the Restricted Period of a Procurement Contract to make a written record of any Contacts made. The term “Contract” is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the Governmental Procurement. In addition to obtaining the required identifying information, the Governmental Entity must inquire and record whether the person or organization that made the Contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or Contact the Governmental Entity.

It should be noted that State Finance Law §139-k (6) provides: Any communications received by a governmental entity from members of the state legislature, or legislative staffs, when acting in their official capacity, shall not be considered to be a “contact” within the meaning of this section and shall not be recorded by a governmental entity pursuant to this section.

Instructions

This form is for each Procurement Contract governed by State Finance Law §139-k. All recorded Contacts shall be included in the procurement record for the Procurement

Contract. This form was designed to collect information about initial and subsequent Contacts on the specified procurement contract during the Restricted Period. However, a separate form must be completed for each person or organization that Contacts the Authority about each Procurement Contract. Additional information and guidance on the “restricted period” and permissible Contacts can be found in the guidelines issued by the Advisory Council on Procurement Lobbying, which can be found [:http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html](http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html).

Every Offerer and those designated, employed or retained by Offerers must be informed of the intention to record the Contact. It is also the Authority’s responsibility that information is provided to Offerers and others on the statutory Restricted Period, Designated Contacts and the Permitted Contacts.

**Erie County Water Authority Report of Contact
Under State Finance Law §139-k (4)**

Procurement Record Regarding the following

Project No. _____
Vendor No. _____
Master Purchase Order No. _____

Contract No. _____
Budget Item No. _____
Purchase Order No. _____

Designated project contact persons of record

(Name and Title)

Was the person making the Contact informed that the Contact would be documented?	Yes	No
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I had contact with the below named individual(s) 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 _____	Occupation _____
Company _____	Telephone No. _____
Address _____	

Is the above named person or organization the "Offerer" in this governmental procurement?	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?	Yes	No
- contact the governmental entity about the governmental procurement?	Yes	No

Contact List

Dates:	Summary of contact (e.g., email, letter, conversation) and topic of the communication
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Use additional pages or copies of written communications as necessary. Also properly identify all attachments.

Designated Contact Person: _____	Date: _____
(Signature)	

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