

**Advisory Council on  
Procurement Lobbying  
2010 Annual Report**

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## **Executive Summary**

This document sets forth the Advisory Council on Procurement Lobbying's (the "ACPL") Annual Report for 2010, in compliance with the reporting obligations mandated by § 1-t (d) of the Legislative Law. The report discusses recent legislative changes made to the Procurement Lobbying Law ("the Law"), and the ACPL's activities during the year, including those which address those legislative changes.

In 2010, the ACPL continued to advance legislative proposals designed to clarify the Law and address concerns raised by those subject to it. These proposals are the culmination of the ACPL's efforts in 2008 and are discussed more thoroughly in the 2008 Annual Report which can be found on the ACPL's website.<sup>1</sup> While the ACPL's proposals were not enacted into law, other major legislative changes were made to the Law during the 2010 legislative session.

The ACPL worked diligently to provide guidance and training to those subject to the Law regarding these legislative changes. In addition, the ACPL continued to do outreach and adapt its guidance and training to reflect the responses received from that outreach. This Report also discusses those efforts.

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<sup>1</sup> <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/Reports/2008ACPLAnnualReport.pdf>.

## **I. Introduction**

The Law, which amended the Legislative Law<sup>2</sup> and the State Finance Law, was enacted on August 23, 2005 by Governor George E. Pataki as Chapters 1 and 596 of the Laws of 2005. The Law regulates attempts to influence state and local Governmental Entity procurement contracts in order to increase transparency and accountability in New York State's procurement process. Modifications to the Law were enacted in 2005, 2006, 2007, 2009 and 2010.

The State Finance Law provisions of the Law regulate Contacts<sup>3</sup> made by Offerers<sup>4</sup> and their representatives to a Governmental Entity during a Restricted Period.<sup>5</sup>

### **A. The Advisory Council on Procurement Lobbying**

Established pursuant to §1-t of the Legislative Law, the ACPL is comprised of eleven members, representing state agencies, authorities/public benefit corporations, the legislature, local government, the judicial branch, the City of New York and the contracting community. The ACPL is responsible for examining the effects of the Law and providing guidance to Governmental Entities and the Vendor/business community. In an effort to meet these responsibilities, the ACPL develops and distributes Frequently Asked Questions ("FAQs") and model language and forms to assist covered Governmental Entities and the Vendor/business community in their efforts to comply with the provisions of State Finance Law §§ 139-j and 139-k.

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<sup>2</sup> The Legislative Law imposes certain registration and reporting requirements on those who engage in lobbying or lobbying activities. Interpretation and enforcement of the Legislative Law is the responsibility of the New York State Commission on Public Integrity ("Commission"). The Commission advanced several legislative proposals during the 2010 legislative session which would have amended the Legislative Law. These proposals, would, among other things, change the Legislative Law's definition of "lobbying," "expense" and "expenses;" and "gift;" impose a penalty on any lobbyist or client who fails to comply with a Commission audit; establish a civil penalty for use of illegal lobbying contingent retainer agreements; increase the time period for which lobbyists and clients must retain their records; and increase the monetary threshold that triggers filings by lobbyists and clients.<sup>2</sup> This legislation was introduced in the Senate by Senator Kruger as S.4264, S.4265, S.4266, S.4267 and S.4268. The proposals were not introduced in the Assembly. Additional information on the Legislative Law and the Commission activities pertaining to the Legislative Law can be found on the Commission's website at <http://www.nyintegrity.org>

<sup>3</sup> State Finance Law §139-j(1)(c) defines "Contacts" as "[a]ny 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."

<sup>4</sup> State Finance Law §139-j(1)(h) defines "Offerer" as "the individual or entity, or any employee, agent or 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 governmental procurement".

<sup>5</sup> State Finance Law §139-j (1)(f) defines "Restricted Period" as the period of time commencing with the earliest written notice, advertisement or solicitation of a request for 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 with a Governmental Entity and ending with the final contract award and approval by the Governmental Entity and, where applicable, the State Comptroller.

This information is available on the ACPL webpage located on the New York State Office of General Services (“OGS”) website.<sup>6</sup>

## **B. The ACPL’s Reporting Obligations Pursuant to Sections 1-t(d) and (f)(2) of the Legislative Law**

Legislative Law §§1-t(d) and (f)(2) require the ACPL to periodically report on the implementation of the Law. In compliance with these mandates, the ACPL transmitted several reports to the Governor and the Legislature, all of which can be accessed on the ACPL’s website.<sup>7</sup>

This document sets forth the ACPL’s annual report for 2010. It discusses legislative changes made to the Law and the ACPL’s activities during the year, including those designed to assist with interpreting those changes.

## **II. ACPL Activities During 2010**

### **A. Education and Outreach Efforts**

In accordance with a directive from the State Office of Taxpayer Accountability (the “OTA”) to find ways to reduce costs, the ACPL amended the way in which it webcasts its’ meetings in 2010. The ACPL’s meetings continue to be open to the public, and videos of the ACPL’s meetings are stored on the OGS website<sup>8</sup> following the meetings. In addition, meeting minutes, including the minutes from the ACPL’s 2010 meetings, are posted to the ACPL’s website<sup>9</sup> after approval.

The ACPL continued to provide trainings for Governmental Entities and the Vendor/business community in 2010. The ACPL posts PowerPoint presentations from some of

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<sup>6</sup> <http://www.ogs.state.ny.us/aboutogs/regulations/defaultAdvisoryCouncil.html>

<sup>7</sup> <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/MtgReportTable.htm>.

<sup>8</sup> <http://www.ogs.state.ny.us/about/Webcast/Archive.asp>

<sup>9</sup> <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/MtgReportTable.htm>

these training sessions on its website<sup>10</sup> in an effort to increase the availability of training information to the public.

The 2010 amendments to the Law were discussed at the annual State Purchasing Forum, which was attended by approximately 1300 purchasing officers at the state and local level. The PowerPoint presentations and/or webcasts of presentations from the State Purchasing Forum can be found at <http://www.ogs.state.ny.us/purchase/snt/overviews/SPFpps.asp>. The enactment of the 2010 amendments provide an opportunity for additional training and anyone who would like to schedule a training session, should contact the ACPL.

### **B. Findings from the ACPL's 2009 Outreach Survey**

In 2009, the ACPL distributed an electronic survey to over three hundred (300) Governmental Entities subject to the requirements of the Law. Forty-five responses were received from a cross-section of entities. A summary of the responses is annexed hereto as Appendix A. Some of the findings of the survey responses are:

- A majority of the respondents (62.2%) kept records or statistics on investigations conducted, but notably, 37.8% of the respondents indicated that either records were not kept or that the person taking the survey did not know if records were kept.
- 86.7% of the respondents have not received any allegations of impermissible contacts.
- When asked to provide additional information or discuss other issues that would be useful for inclusion in this report, one or more respondents indicated that :
  - The Law's dollar limit should be increased;
  - They were unfamiliar with the Law;
  - The Law was more applicable to the legislative environment;

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<sup>10</sup> See, <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/TrainingandOpportunities.html>

- The Law created an unnecessary amount of paperwork and the lobbying efforts that the Law sought to deal with were not present at their level; and
- The model forms on the website should be simplified.

These findings mirror those of the 2007 survey conducted by the ACPL. Those findings were discussed in the ACPL's October 30, 2007 Report on the Effects of Chapter 1 of the Laws of 2005 which can be found on the ACPL website. In 2007, it was reported that respondents did not believe that the Law had a dramatic impact on their activities or the procurement process. However, when questioned further, the same respondents indicated that the Law complicated their procurements and made them more costly. The conclusion reached at that time was that a certain degree of confusion existed surrounding the Law. It appears that the 2009 respondents still believe that the Law adds additional complexity and burdens to the procurement process. The 2009 responses also demonstrate that confusion continues to exist about the Law. The ACPL is considering new means through which to provide training and information to Vendors and Governmental Entities in order to address this confusion.

### **C. Finding of a Non-Responsible Offerer**

The ACPL received a copy of the New York State Office of the Inspector General's (the "NYSOIG") report which determined that an employee of Ajilon Consulting engaged in impermissible communications with an employee of the New York State Office for Technology (the "OFT") during the Restricted Period of a procurement in apparent violation of State Finance Law §139-j (3). The NYSOIG asked that the ACPL review the Ajilon employee's actions for consideration in providing guidance to state agencies, public authorities, public benefit corporations and other covered public entities. In addition, OFT conducted an investigation into a possible violation of the Law. As a result of that investigation, OFT made a determination of non-responsibility against Ajilon Consulting. That determination was transmitted to OGS, as

secretariat of the ACPL, and posted on the ACPL's website.<sup>11</sup> The ACPL will also take this matter into consideration as it conducts future trainings.

### **III. Legislative Activities Pertaining to the Law**

#### **A. Extension of Sunset of State Finance Law §§139-j and 139-k**

In 2009, Chapter 169 of the Laws of 2008 extended the sunset of State Finance Law §§139-j and 139-k until March 10, 2010. Because the ACPL believed that the extension of these provisions is important in order to maintain the integrity of the public procurement process and ensure that the process is competitive, open and transparent, it authorized OGS to advance legislation, on its behalf, extending the provisions of the State Finance Law until July 31, 2011. That legislation was introduced in the Senate by Senator Kruger as S. 3360. S. 3360 was not introduced in the Assembly.

Assemblywoman Destito introduced legislation known as A. 9949-A extending State Finance Law §§139-j and 139-k until July 31, 2014. This bill was also introduced in the Senate (S. 6924-B) by Senator Kruger, passed by the Legislature and was signed by Governor Paterson on March 10, 2010 as Chapter 4 of the Laws of 2010.

#### **B. Discussion of Legislative Efforts That Could Have Affected the Law**

The ACPL also authorized OGS to advance its legislative proposals to amend the Law, which were designed to bring greater clarity to the Law and assist those persons and entities that are subject to its requirements by providing an increased understanding of the Law's requirements and applicability, thereby making its administration less burdensome. The legislative proposal introduced by Senator Kruger as S. 3362 addressed the following issues:

- Clarification of the definition of the term Contacts;
- Clarification of the definition of the term Governmental Procurement;

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<sup>11</sup> [http://www.ogs.state.ny.us/aboutogs/regulations/SFL\\_139j-k/NonResponsible.htm](http://www.ogs.state.ny.us/aboutogs/regulations/SFL_139j-k/NonResponsible.htm)

- Clarification of the definition of the term Procurement Contract;
- Clarification of the definition of the term Offerer;
- Expansion of the Permissible Subject Matter Communication Categories; and
- Clarification of the recording requirements imposed by State Finance Law §139-k (4).

This proposal was not introduced in the Assembly.

Governor Paterson's Article VII legislative proposal also addressed procurement lobbying by providing for the elimination of several entities, including the ACPL, in an effort to consolidate governmental entities where possible. The proposed Article 7 bill would have repealed §1-t of the Legislative Law which created the ACPL and would also have amended §161 of the State Finance Law (which is the section which created the State Procurement Council) to include the responsibilities set forth in current subdivisions (c), (d) and (e) of Legislative Law §1-t. If enacted, this proposal would have resulted in the State Procurement Council taking on the following responsibilities of the ACPL with regard to:

- Providing advice to the Commission on Public Integrity with respect to the implementation of the provisions of the Legislative Law pertaining to procurement lobbying;
- Reporting annually to the legislature on any problems in the implementation of the provisions of the Legislative Law pertaining to procurement lobbying (including in the report any recommended changes to increase the effectiveness of that implementation); and
- Establishing model guidelines on procurement lobbying in accordance with §139-j of the State Finance Law.

This proposal was not advanced by the Legislature.

### **C. Chapter 4 of the Laws of 2010**

The legislation introduced by Assemblywoman Destito (A. 9949-A) also included amendments intended to create clarity and certainty for both Vendors and Governmental Entities regarding their rights and responsibilities during the procurement process. As previously stated, this legislation was introduced in the Senate by Senator Kruger as S. 6924-B, and was enacted into law on March 10, 2010 as Chapter 4 of the Laws of 2010 (“Chapter 4”).

The Statement in Support of Chapter 4 states that it was intended to address concerns that were expressed that the Law has resulted in the unintended consequences of creating a chilling effect on legitimate Vendor-Governmental Entity communications during Governmental Procurements. It was acknowledged that these legitimate communications, as long as they are properly recorded and evenhandedly received, are an important source of feedback for Governmental Entities during procurements.

#### **1. Definition of the Term “Governmental Procurement”**

Chapter 4 amended the definition of the term “Governmental Procurement” by determining that a Governmental Procurement begins with the public announcement, public notice or public communication to any potential Vendor of a determination of need for a procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, request for proposals or evaluation criteria for a procurement contract. This change provides a new starting point for a Governmental Procurement, but this amendment may present some barriers to discussions that Governmental Entities have with Vendors in order to determine what is available in the marketplace. The ACPL has revised its FAQs in order to provide guidance to Governmental Entities and the Vendor community on the revised definition and its impact on the procurement process.

## **2. Definition of the Term “Offerer”**

The amendments to the term Offerer made by Chapter 4 indicates that a Governmental Entity or its employees, in the exercise of its oversight duties, is not to be considered an Offerer when it communicates with the procuring Governmental Entity regarding a Governmental Procurement. The amendment did not, however, include the ACPL’s proposal, which is discussed more fully in the ACPL’s previous reports,<sup>12</sup> to amend the definition of the term Offerer to remove advocacy groups or others who claim that they are exercising their right to free speech regarding a Governmental Procurement.

## **3. Definition of the Term “Procurement Contract”**

The definition of the term Procurement Contract was revised to specifically state that the term includes an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable). This change more closely reconciles the definition of the term Procurement Contract with the definition of the term Governmental Procurement. Governmental Procurement, in pertinent part, is defined as “...(v) 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).” This exemption for amendments that are authorized and payable under the terms of the Procurement Contract as it was finally awarded or approved by the comptroller is now encompassed in both definitions.

The exceptions to the term Procurement Contract were also expanded to include contracts governing organ transplants and contracts allowing for state participation in trade shows. These

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<sup>12</sup> <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/Reports/2008ACPLAnnualReport.pdf>

exemptions were proposed by the ACPL because it believed that, like the other exemptions in State Finance Law §§139-j(1)(g) and 139-k(1)(g), these contracts reflect transactions where there is either a public policy rationale or the existence of another regulatory or control system that negates or mitigates inappropriate influences that the Law seeks to prevent, thereby eliminating the need for additional statutory controls. The amendment should reduce the cost and duration of these procurements which already have systems in place to negate or mitigate the inappropriate influences that the Law seeks to prevent.

#### **4. Definition of the Term “Contact”**

The definition of the term Contact was amended to clarify that it refers to actions that a reasonable person would infer were intended to influence the Governmental Entity’s conduct or decision regarding the Governmental Procurement. This amendment is consistent with the ACPL’s proposal. As the ACPL discussed in its previous reports, the focus of the determination of whether a communication is a Contact, should be based upon whether a reasonable person would believe that the communication was intended to influence the Governmental Entity because the Governmental Procurement can only be influenced if someone at the Governmental Entity is influenced by the communication. The amendment clarifies the true intent of the provision, and should also reduce administrative burdens and lessen erroneous reporting by Governmental Entities.

#### **5. Selection of Designated Contacts**

Chapter 4 amended State Finance Law §139-j(2)(a) to require that designated contacts who are knowledgeable about the procurement be selected at the time that a Restricted Period is imposed. This amendment, in conjunction with the amended definition for Governmental Procurement, creates uncertainty for Governmental Entities and Vendors and raises the possibility that a Governmental Procurement can be commenced prior to the point at which designated

contacts are named. The ACPL is presently working on FAQs to address this issue and provide those subject to the Law with guidance.

## **6. Expansion of the Permissible Subject Matter Communication Categories**

Chapter 4 amended and expanded the permissible subject matter communication categories set forth in State Finance Law §139-j(3)(a). The two categories added were: communications that solely address a vendor responsibility determination of an Offerer and certain communications made by certain preferred source providers. In addition, Chapter 4 clarified the exceptions pertaining to evaluation of bids by allowing participation in a demonstration, conference or other means for exchange of information in a setting open to all potential bidders provided for in the solicitation. This amendment does not provide that interviews are a permissible subject matter exception. The final amendment allows the Office of the State Comptroller (“OSC”) to receive protests, appeals or complaints in a manner other than writing, as long as a record is made of the communications and the responses to the same. This is a proposal that was advanced by OSC last year and proposed by Assemblywoman Destito and Senator Stachowski as A. 8314 and S. 4085. However, it was not enacted into law at that time. A discussion of the issues surrounding this change can be found in the ACPL’s 2009 annual report.

The final amendment to State Finance Law §139-j(3)(a) clarifies that the ability of an oversight agency to provide information to Offerers on the status of review, oversight or approval of a Governmental Procurement is not limited by the Law.

## **7. Clarification on Affirmations From Offerers**

State Finance Law §139-j(a)(6)(b) was amended by Chapter 4 to provide that written affirmations by Offerers apply to any amendments to a procurement submitted by the Governmental Entity after the initial affirmation is submitted with the Offerer’s initial bid. This

administrative clarification should eliminate some duplication of paperwork for the Offerer and the Governmental Entity.

#### **D. ACPL Response**

The changes to the Law brought about by the enactment of Chapter 4 are substantial. Accordingly, the ACPL determined that training and outreach on Chapter 4 were necessary. In the spring of 2010, the ACPL began a comprehensive review of its FAQs. This review resulted in revisions to a number of FAQs and issuance of some new FAQs. The revised FAQs can be found on the ACPL website and the FAQs that have been updated reflect a revision date for ease of use.

In addition, the ACPL, through OGS, began presenting training on the Chapter 4 amendments as discussed herein. Additional trainings to the Vendor and Governmental Entity community are being developed. The ACPL also always welcomes invitations from groups that would like training.

#### **IV. Conclusion**

Several legislative efforts were undertaken in 2010 in an effort to increase the effectiveness of the Law. The result is changes to the Law that the ACPL hopes will result in greater compliance by those subject to its requirements. There are still changes that the ACPL believes should be made in order to promote consistency among the various provisions of the Law and ensure the usefulness of the additional requirements. For these reasons, we ask that the Governor and the Legislature consider the recommendations set forth in the ACPL's previous reports.

## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Name of Governmental Entity	
Answer Options	Response Count
	44
<i>answered question</i>	<b>44</b>
<i>skipped question</i>	<b>1</b>

### Response Text

SUNY Oswego  
 County of Sullivan Industrial Development Agency  
 SUNY Cortland  
 Harrietstown Housing Authority  
 Town of Islip Housing Authority  
 Syracuse Housing Authority  
 State University of New York College at Oneonta  
 NYS Workers' Compensation Board  
 Salamanca (city of) Housing Authority  
 Jefferson County IDA  
 SUNY Potsdam  
 New York State Office for the Prevention of Domestic Violence  
 Lake George Park Commission  
 Livingston County Industrial Development Agency  
 The University at Albany, SUNY  
 New York Power Authority  
 New York State Housing Finance Agency/State of New York Mortgage  
 Agency/New York State Affordable Housing Corporation/State of New  
 York Municipal Bond Bank Agency/Tobacco Settlement Financing  
 Corporation  
 New York State Department of Motor Vehicles  
 Dept. of Public Service  
 Village of Watkins Glen Housing Authority  
 Harlem Community Development Corporation (A subsidiary of Empire  
 State Development Corporation)  
 NYS Thruway  
 Greenburgh Housing Authority  
 White Plains Urban Renewal Agency

NYS Office of Homeland Security  
Rochester-Genesee Regional Transportation Authority  
Buffalo State College  
Office of Mental Retardation and Developmental Disabilities (OMRDD)  
SUNY College at Geneseo  
Town of Victor  
SUNY Stony Brook  
Dutchess County Economic Development Corporation  
NYS Office of Cyber Security and Critical Infrastructure Coordination  
SUNY Buffalo  
Rockland County Solid Waste Management Authority  
NYS Division of Housing & Community Renewal  
Development Authority of the North Country  
New York State Department of Labor  
New York Lottery  
Division of the Budget  
NYS Department of Civil Service  
Roosevelt Island Operating Corporation of the State of New York  
Genesee County Economic Development Center  
NYS Office of Parks, Recreation and Historical Preservation

**Survey Tool for Governmental Entities Re:  
Procurement Lobbying Law**

Today's date	
Answer Options	Response Count
	44
<i>answered question</i>	<b>44</b>
<i>skipped question</i>	<b>1</b>

**Response Text**

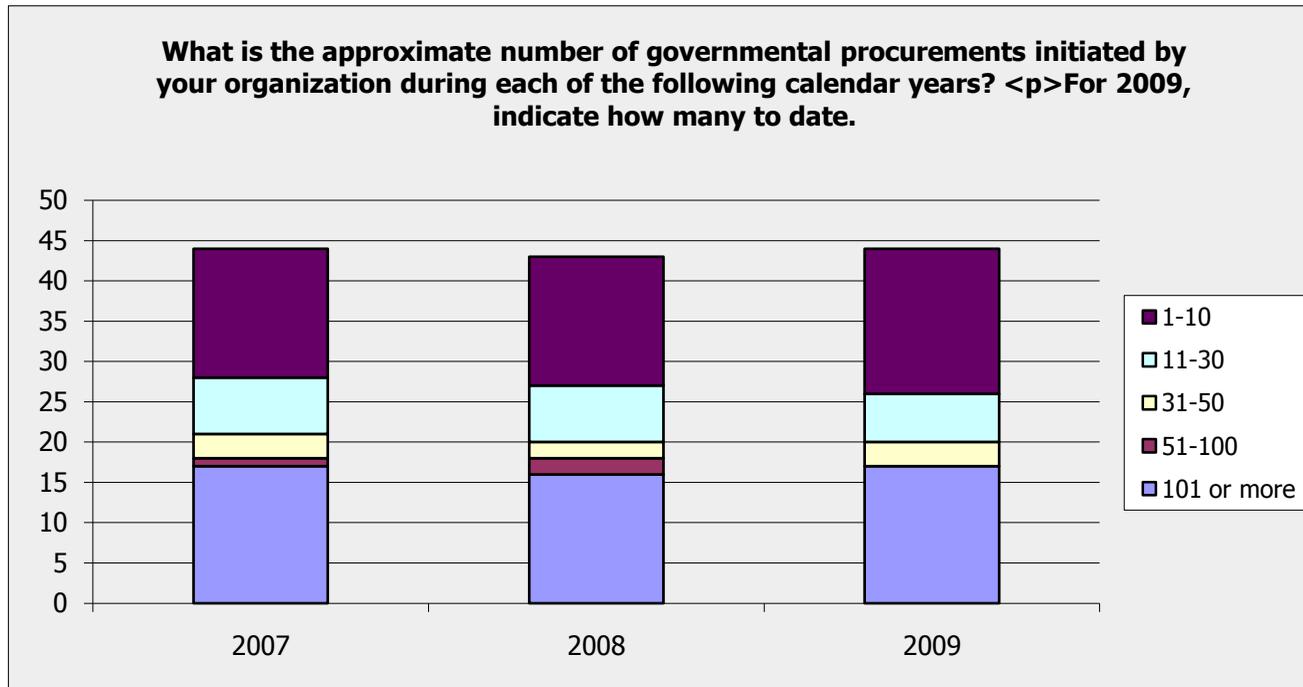
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12/02/2009  
12/02/2009  
12/03/2009  
12/04/2009

## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

What is the approximate number of governmental procurements initiated by your organization during each of the following calendar years? <p>For 2009, indicate how many to date.

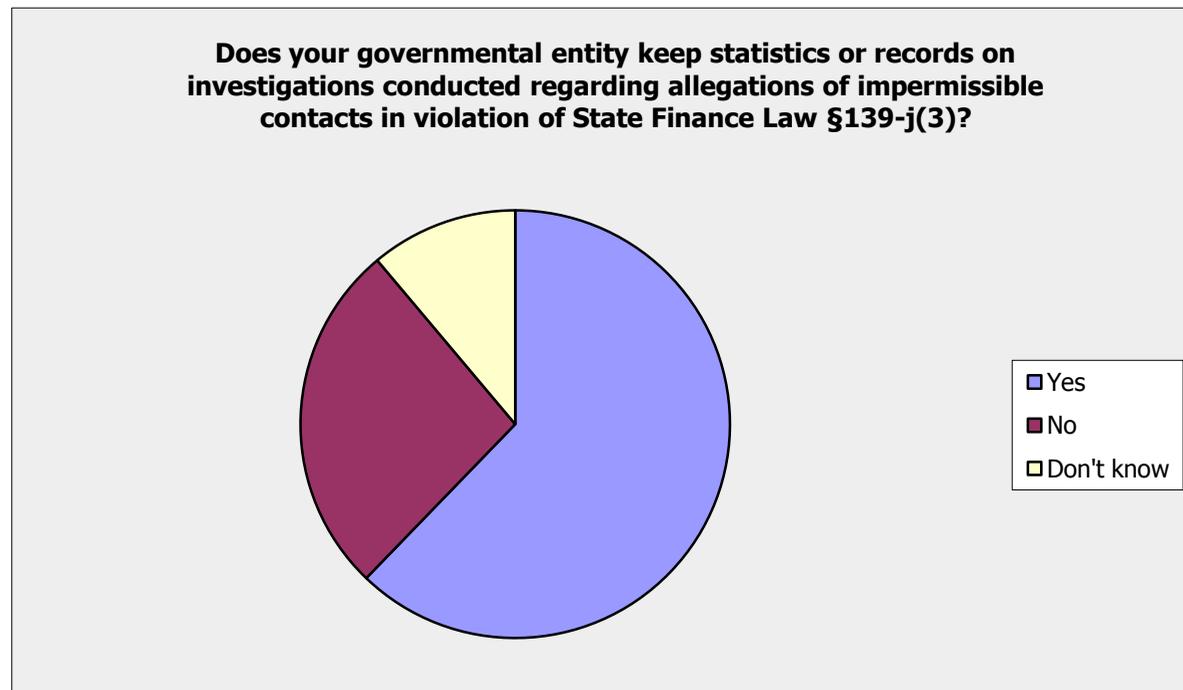
Answer Options	1-10	11-30	31-50	51-100	101 or more	Response Count
2007	16	7	3	1	17	44
2008	16	7	2	2	16	43
2009	18	6	3	0	17	44
<i>answered question</i>						<b>45</b>
<i>skipped question</i>						<b>0</b>



## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Does your governmental entity keep statistics or records on investigations conducted regarding allegations of impermissible contacts in violation of State Finance Law §139-j(3)?

Answer Options	Response Percent	Response Count
Yes	62.2%	28
No	26.7%	12
Don't know	11.1%	5
<b>answered question</b>		<b>45</b>
<b>skipped question</b>		<b>0</b>



## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

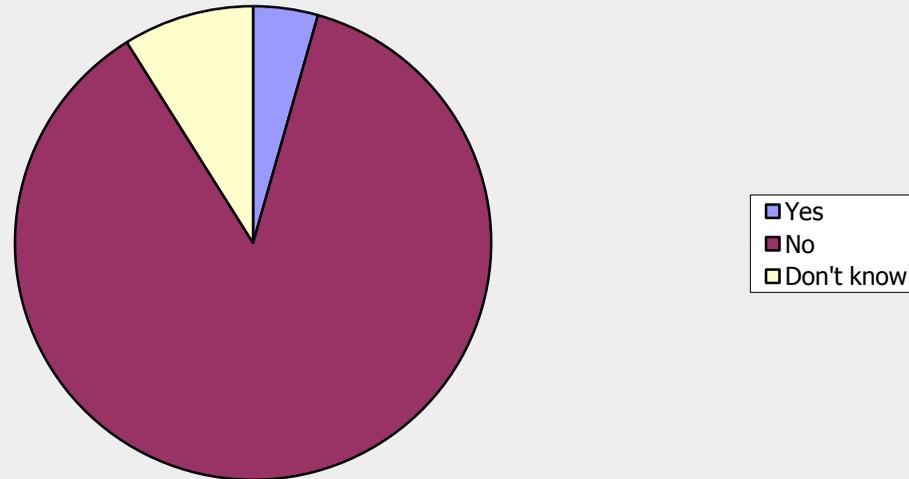
Has your governmental entity received allegations of impermissible contacts in violation of State Finance Law §139-j(3)?<p>If you choose No or Don't know, you will be directed to Question 12.

Answer Options	Response Percent	Response Count
Yes	4.4%	2
No	86.7%	39
Don't know	8.9%	4
If so, please describe the nature of the allegations; please omit any identifying information.		1
<b>answered question</b>		<b>45</b>
<b>skipped question</b>		<b>0</b>

If so, please describe the nature of the allegations; please omit any identifying information.

Attempts at influence from former political officials.

Has your governmental entity received allegations of impermissible contacts in violation of State Finance Law §139-j(3)?<p>If you choose No or Don't know, you will be directed to Question 12.



## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

If your governmental entity received any allegations, identified in question 5, please provide the following:

Answer Options	Response Percent	Response Count
Number of allegations of violations	100.0%	3
Number of determinations that sufficient cause exists to	66.7%	2
Number of determinations that sufficient cause does not exist	66.7%	2
Number of findings of knowing and willful violations	33.3%	1
<b>answered question</b>		<b>3</b>
<b>skipped question</b>		<b>42</b>

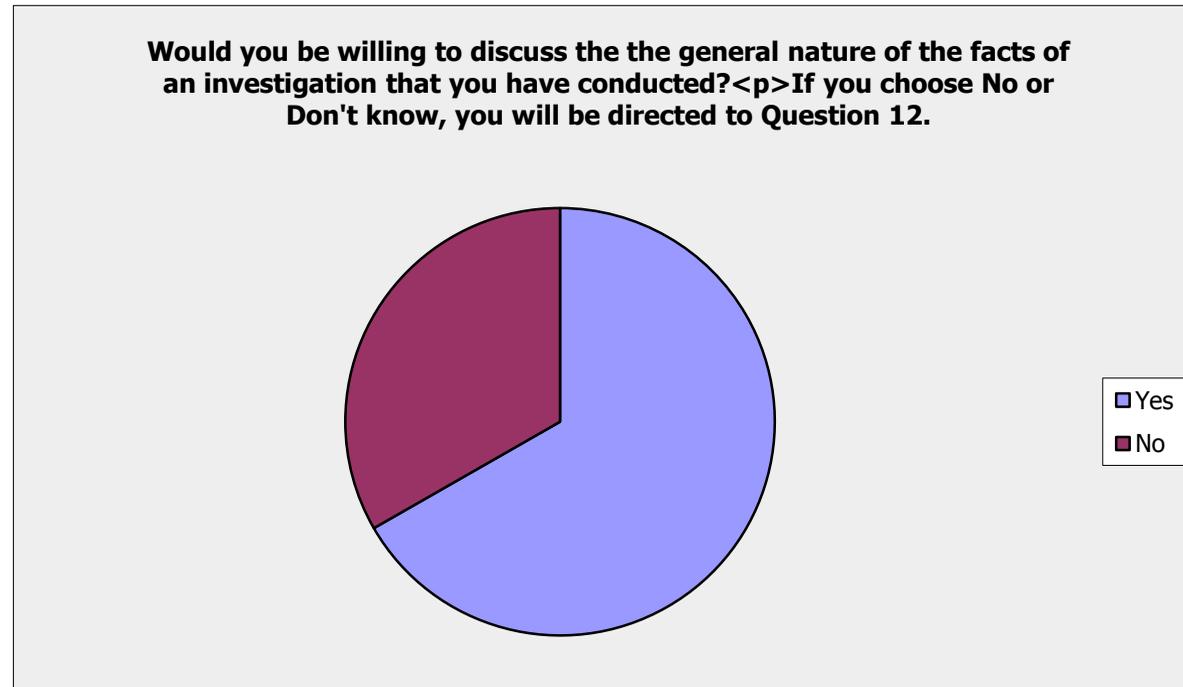
Number of allegations of violations	Number of determinations that sufficient cause exists to believe that such allegation is true	Number of determinations that sufficient cause does not exist to believe that such allegation is true	Number of findings of knowing and willful violations
0	0	0	0
1	0	0	0
0			



## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Would you be willing to discuss the the general nature of the facts of an investigation that you have conducted?<p>If you choose No or Don't know, you will be directed to Question 12.

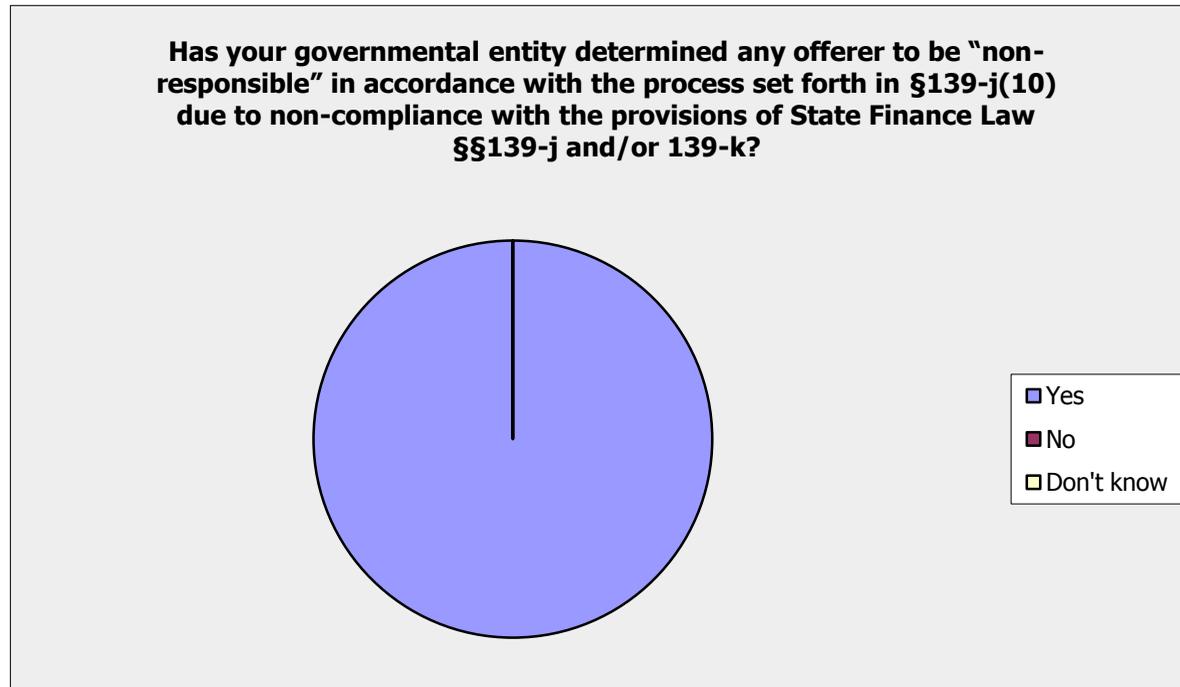
Answer Options	Response Percent	Response Count
Yes	66.7%	2
No	33.3%	1
<i>answered question</i>		<b>3</b>
<i>skipped question</i>		<b>42</b>



## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Has your governmental entity determined any offerer to be "non-responsible" in accordance with the process set forth in §139-j(10) due to non-compliance with the provisions of State Finance Law §§139-j and/or 139-k?

Answer Options	Response Percent	Response Count
Yes	100.0%	1
No	0.0%	0
Don't know	0.0%	0
<i>answered question</i>		<b>1</b>
<i>skipped question</i>		<b>44</b>



**Survey Tool for Governmental Entities Re:  
Procurement Lobbying Law**

Please provide specific information related to the non-responsible findings; please omit any identifying information.

<b>Answer Options</b>	<b>Response Count</b>
	0
<i>answered question</i>	<b>0</b>
<i>skipped question</i>	<b>45</b>

## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Has your governmental entity encountered any issues in connection with an allegation of a violation or while conducting an investigation that you believe should be addressed by the Advisory Council on Procurement Lobbying ("ACPL") through its training materials?

Answer Options	Response Percent	Response Count
Yes	0.0%	0
No	0.0%	0
Don't know	0.0%	0
If yes, please describe the circumstances and suggest how the ACPL could amend its training.		0
<b><i>answered question</i></b>		<b>0</b>
<b><i>skipped question</i></b>		<b>45</b>

## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Has your governmental entity received an allegation of a violation or conducted an investigation that involved a situation that you believe should be addressed by the Legislature through an amendment to State Finance Law §§139-j and 139-k (the "Law")?

Answer Options	Response Percent	Response Count
Yes	0.0%	0
No	0.0%	0
Don't know	0.0%	0
If yes, please describe the circumstances and suggest how this might be addressed through amendment to the Law.		0
	<b><i>answered question</i></b>	<b>0</b>
	<b><i>skipped question</i></b>	<b>45</b>

## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Please use the space below to provide additional information or discuss any other issues pertaining to implementation of the Law that you think might be useful for inclusion in the ACPL's report to the Governor and Legislature in discussing investigations of violations of State Finance Law §139-j(3) or to build on any of the responses above.

Answer Options	Response Count
	16
<i>answered question</i>	<b>16</b>
<i>skipped question</i>	<b>29</b>

### Response Text

We would comment that the lobby law requirements of obtaining affirmation and disclosure signatures at the \$15,000 level is obtrusive and should be raised to a higher level. The \$15,000 level is inappropriate and not realistic in today's business climate. It imposes undue burdens of paperwork for private business on procurements of a routine nature. An alternative level would be \$100,000, since that is where additional Vendor Responsibility processes are required. State Tax law 5A as amended in 2006 was changed to this more fitting dollar level.

None

The \$15,000 threshold is low and difficult to implement especially when the agency uses many procurement cards for most purchases.

Housing Authorities implementing HUD funding that are following the HUD guidelines should have no issues with complying with the law.

To have a small vendor with a \$15,000 contract having to sign that they did not lobby for our business seems a waste of both their and our time. Please make the threshold a more reasonable level. It costs way more in our time to monitor and explain this law than any benefit we are deriving from this. It would make much more sense at something like a \$100,000 level.

We have no issues with the current law.

We have not had any issues relating to the implementation of the requirements of this law.

Conferred with the NYPA Ethics Officer who confirmed that there have been no allegations of impermissible contacts.

I am not familiar with State Finance Law

None

With regard to Question No. 4, above, since we have not received any allegations, we have no statistics or records on investigations conducted regarding allegations of impermissible contacts.

These laws have require this organization to handle unnecessary amounts of paperwork. Lobbying efforts are not present at our levels.

This laws is more appropriate to legislative environment.

For the survey period, 2007 - 2009, the Development Authority of the North Country did not have any instances of impermissible contacts for any procurements.

We would recommend that the ACPL consider development and adoption of a consolidated, streamlined one page form that all agency would use in their procurements/solicitations vs. the three page model forms available on the ACPL's website.

None

None

## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Have you developed any best practices with regard to implementation of the Law that would be useful to share with others?

Answer Options	Response Percent	Response Count
Yes	14.3%	6
No	66.7%	28
Don't know	19.0%	8
If Yes, please specify what best practices you have developed.		9
<b>answered question</b>		<b>42</b>
<b>skipped question</b>		<b>3</b>

### If Yes, please specify what best practices you have developed.

Limit the number of people out side of purchasing who are listed as "contacts" in the procurement and notify departments not to speak to anyone regarding the procurement during the sensitive time period form Ad to award.

We include the information and forms in any formal solicitations so that responding vendors provide the information and comply.

We provide routine review of documents submitted by vendor against public records.

We require the vendor to submit responses to predefines questions. The contracting agent then provides certification to their validity findings.

We also require the Vendor Responsibility or a component of it. The contracting agent completes a review (fully/partial) of the findings.

The agency's intranet site contains summaries of the applicable law and agency policy implementing the law, including how to make mandated reports of impermissible contacts, who shall investigate those reports, and how to address impermissible contacts that are found to be knowing and willful.

We conduct monthly "Business Officer Conference Calls" to discuss timely topics (including Procurement Lobbying Law) with our field offices. I feel that this communication effort leads to a better understanding of procurement practices throughout the OMRDD.

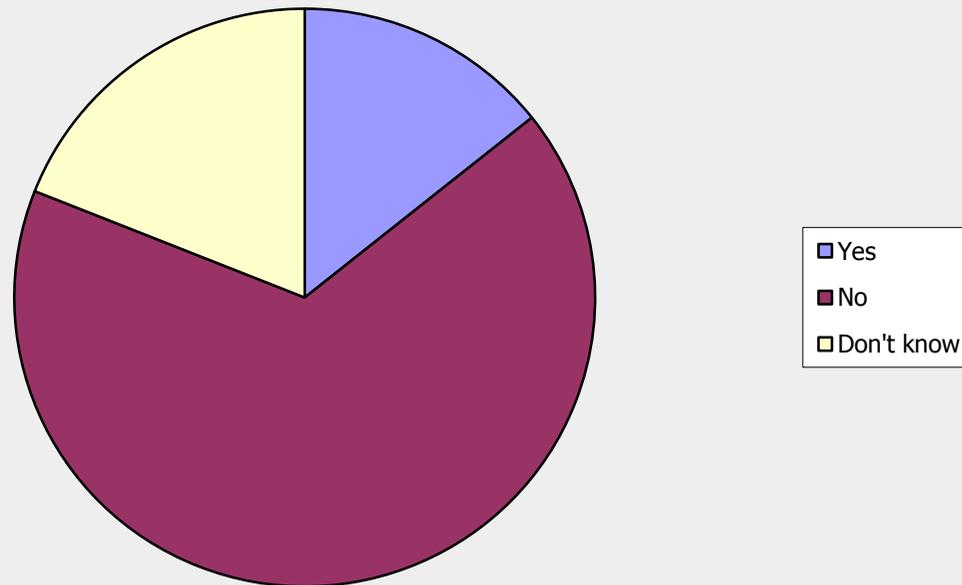
Procurement Procedures that must be followed.

The "Governmental Entity Record of Contact Under State Finance Law §139-k(4)" has been added to the DHCR Intranet for access by all employees. When complete, this form is sent to the appropriate Finance Office to ensure that all reports of contact are filed with the appropriate procurement documentation. We also send out a notice to the appropriate staff when an RFP has been released instructing them that the restricted period is now in effect.

Our Authority utilizes a threshold of \$30,000 for bidding, and given the limited scope of procurement, we have not encountered any lobbying.

In the solicitation document, we always provide more than one designated contact - at minimum, one for technical assistance and one for fiscal assistance. The more complex, the more designated contacts (SMEs) needed. This minimizes, if not eliminates, potential Lobby Law violations.

**Have you developed any best practices with regard to implementation of the Law that would be useful to share with others?**



## Survey Tool for Governmental Entities Re: Procurement Lobbying Law

Please provide the following information should we wish to discuss your answers further.

Answer Options	Response Percent	Response Count
Name:	100.0%	41
Agency:	100.0%	41
Address:	100.0%	41
State:	100.0%	41
Email Address:	100.0%	41
Phone Number:	100.0%	41
<b>answered question</b>		<b>41</b>
<b>skipped question</b>		<b>4</b>

Name:	Agency:	Address:	State:	Email Address:	Phone Number:
Mark	Cole County of Sullivan Industrial Development	SUNY Oswego,402 Culkin Hall, Oswego	NY	rmark.cole@oswego.edu	(315) 312-3627
Jennifer CS Brylinski	Agency	One Cablevision Center, Ferndale	NY	scida@hvc.rr.com	(845) 295-2603
Sam Colombo	SUNY Cortland	PO Box 2000, Cortland 13045	NY	samuel.colombo@cortland.edu	(607) 753-2307
David	Aldrich	14 Kiwassa Rd Saranac Lake	NY	daldrich@harrietstownha.org	(518) 891-3050
Richard Wankel	Town of Islip Housing Authority	963 Montauk Highway	NY	richw@isliphousing.org	(631) 589-7186
David Paccone	Syracuse Housing Authority	516 Burt Street	NY	dpaccone@syrhousing.org	(315) 436-8003
Denise Straut	SUNY College at Oneonta	108 Ravine Pkwy, Oneonta	NY	strautda@oneonta.edu	(607) 436-2583
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Lyle V. Eaton	Jeff County IDA	800 Starbuck Ave.	NY	leaton@jcjdc.net	(315) 782-5862
Mark Martinchek	SUNY Potsdam	44 Pierrepont Ave	NY	martinme@potsdam.edu	(315) 267-3106
Eileen F Swan	NYS OPDV	80 Wolf Rd	NY	eileen.swan@opdv.state.ny.us	(518) 457-5825
Michael P. White	Lake George Park Commission	PO Box 749, Lake George	NY	mpwhite@lgpc.state.ny.us	(518) 668-9347
Patrick Rountree	Livingston County IDA	6 Court St., Room 306, Geneseo	NY	prountree@co.livingston.ny.us	(585) 243-7124
Edward Kane	University at Albany, SUNY	1400 Washington Avenue	NY	ekane@uamail.albany.edu	(518) 437-4570
Patricia A. Leto	New York Power Authority New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco	123 Main Street	NY	patricia.letto@nypa.gov	(914) 681-6623
Lisa G. Pagnozzi	Settlement Financing Corporation	641 Lexington Avenue	NY	lpagnozzi@nyhomes.org	(212) 872-0364
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Anne Cleveland	Village of Watkins Glen Housing Authority	222 E. Second Street, Watkins Glen	NY	jeffersonvillage@stny.rr.com	(607) 535-2640
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Fred Rudin	NYS Thruway	200 Southern Blvd	NY	Fred_Rudin@thruway.state.ny.us	(518) 436-2736
Susan Habel	White Plains Urban Renewal Agency	255 Main Street	NY	shabel@ci.white-plains.ny.us	(914) 422-1366
Earl Knowles	NYS OHS	1220 Washington Ave, NYS Office Campus, Bldg. 7a	NY	earl.knowles@security.state.ny.us	(518) 457-5638
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Tara Clark	Town of Victor	85 E Main Street	NY	tjclark@town-victor-ny.us	(585) 742-5027
Thomas D. Smith	Office of Cyber Security and Critical Infrastructure Coordination	30 South Pearl, P2 Albany	NY	thomas.smith@cscic.state.ny.us	(518) 474-4755
John MacEnroe	DCEDC	3 Neptune Road Poughkeepsie	NY	macenroe@dcedc.com	(845) 463-5406
Dan Vivian	SUNY Buffalo	Amherst	NY	dtvivan@buffalo.edu	(716) 645-4540
Keith Braunfotel	RCSWMA	420 Torne Valley Road	NY	keith@braunfotelandfrendel.com	(845) 753-2200
Sandra Johnson	NYS Div. of Housing & Community Renewal Development Authority of the North	38-40 State St.	NY	sjohnson@nysdhcr.gov	(518) 486-3408
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Joanne Peal	NYS DOL	Bldg. 12, Harriman Campus, Rm.454	NY	joanne.peal@labor.state.ny.us	(518) 457-1397
Julie Barker	New York Lottery	One Broadway Center, POB 7500	NY	jbarker@lottery.state.ny.us	(518) 388-3408
Sharon Garipey	Division of the Budget	State Capitol, Room 254	NY	sharon.garipey@budget.state.ny.us	(518) 474-2305
Arthur G. Eliav	Roosevelt Island Operating Corp.	591 Main Street, Roosevelt Island	NY	aeliav@gmail.com	(212) 832-4540
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Lezlie Farrell	Genesee County Economic Development Center	1 Mill St., Batavia	NY	lfarrell@gcedc.com	(585) 343-4866 (ext 18)
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