

**Model Form for Use by a Non-procuring Governmental Entity
to Refer a Contact for Review and Investigation by the Procuring Governmental Entity
under State Finance Law §139-j(9)**

Background:

The State Finance Law requires certain Governmental Entities to make a determination of responsibility before awarding a Procurement Contract. The determination must be based on traditional responsibility factors such as financial and organizational capacity, legal authority, integrity, and past performance. The provisions of the Procurement Lobbying Law additionally require Governmental Entities to consider in responsibility determinations any violations of the permissible Contact requirements of State Finance Law §139-j and the disclosure requirements of State Finance Law §139-k. There must be a determination of non-responsibility if it is found that the Offerer knowingly and willfully made an impermissible Contact or failed to timely disclose accurate and complete information or otherwise cooperate in providing the information required by State Finance Law §139-k.

Model Form 9 can be used to formalize the information provided to the responsible agency official at the Procuring Governmental Entity that conducts the review and investigation regarding a possibly impermissible Contact made to a non-procuring Governmental Entity. For example, if Vendor A Contacts Governmental Entity 1 about a Governmental Procurement of Governmental Entity 2 during the Restricted Period, then Governmental Entity 1 can use this form to refer the possibly impermissible Contact to Governmental Entity 2. Model Form 9 is designed to be used in conjunction with Form 1, *Model Form for Governmental Entity Report of Contact under State Finance Law §139-k(4)*.

Instructions:

If a staff member at a Governmental Entity receives a possibly impermissible Contact, staff is required to refer all such Contacts to [**reference responsible individual at Governmental Entity**] for review and investigation. Form 8 can be used for such referrals. If the possibly impermissible Contact involves a Governmental Procurement undertaken by another Governmental Entity (referred to as “Procuring Governmental Entity”), the [**responsible individual at Governmental Entity**] shall notify the appropriate individual at the Procuring Governmental Entity of the possibly impermissible Contact and provide whatever assistance is appropriate for the Procuring Governmental Entity to conduct its review and investigation. Form 9 can be used to transmit the required information.

Model Form for Use by a Non-procuring Governmental Entity to Refer a Contact for Review and Investigation by the Procuring Governmental Entity under State Finance Law §139-j(9)

To: [reference responsible individual at Procuring Governmental Entity]

By: _____

Name and Title
Non-procuring Governmental Entity

Date: _____

It appears that a Contact may have been made in violation of State Finance Law §139-j(3) and (4) regarding a Governmental Procurement by your agency. This Contact is being referred to you for further review and investigation in accordance with the process required under State Finance Law §139-j(9) for a determination whether this Offerer can be held responsible for purposes of contract award.

We are available to provide whatever assistance you deem appropriate.

Offerer:

Name of Person who made the Contact being referred

Name of Business

Date of Contact

Description/Reference Information on Governmental Procurement

Person Contacted: _____

Description of Contact: _____

(Add additional information as necessary.)

A copy of the record is attached.