



**Office of
General Services**

State Finance Law §§139-j and 139-k

**Procurement Lobbying
“Dos and Don’ts”**

- State Finance Law restricts communications between the business community (Offerers) and the government about procurement contracts
- It recognizes there are different kinds of communications

- Communications that are an “attempt to influence” have specific rules (referred to as Contacts)
- The Law requires each Governmental Entity to develop a policy on permissible Contacts and to inform Offerers.
- The policy tells business community where to **direct advocacy efforts**
- If an Offerer does not so limit Contacts, the Contacts are “impermissible Contacts”

- Violation of such rules has **severe** consequences – including public notice of non-responsibility, non-award of contract and debarment
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General Rule

- Offerer can always Contact Designated Contact
- Offerer cannot Contact other employees or governmental entities unless falls within one of the permissible subject matter (SFL §139-j(4))
 - For example, okay to file written protest or complaint with OSC, but not to otherwise Contact

Do's:

- Find out what a vendor wants to discuss **before** agreeing to talk
 - Determine if there is a Restricted Period
 - If there is a Restricted Period, determine who is the Designated Contact for that procurement and
 - Direct communications correctly (namely to the Designated Contact)

Do's:

- Follow the processes in the solicitation
 - Generally request all questions be submitted in writing to the contracting officer listed in the solicitation
- Develop agendas for any meetings that are conducted and stick with the agenda

Do's:

- Create a record of Contact for **every** Contact – even if you are the Designated Contact or otherwise authorized under statute
- Send the record of Contact to the Designated Contact for inclusion in procurement record

Do's:

- If not a Designated Contact, do refer for investigation all impermissible Contacts
 - You don't make decision: you are obligated to make a referral!
- Do cooperate with Legal Services in its investigation.

Don'ts:

- Don't discuss procurements in a Restricted Period – it lasts until OSC approves the contract!
- Don't hesitate to call or email Legal Services with any questions about the Law

Resources

- Guidance developed by the Advisory Council on Procurement Lobbying, including model forms and language, and other materials, is online at: <http://ogs.ny.gov/ACPL/>