

**MONROE COUNTY WATER AUTHORITY**  
**INTERNAL CONTROLS AND FINANCIAL ACCOUNTABILITY**  
**— READOPTED DECEMBER 2022 —**

Monroe County Water Authority (the “Authority”) constitutes a public benefit corporation of the State of New York. The Authority fulfills a public mission and must comply with the provisions of applicable laws, including the New York Public Authorities Law. Because the Authority’s assets are held for the public benefit, the Authority’s Members and officers have a fiduciary duty to protect them. The following policy sets forth internal controls for the protection and oversight of the Authority’s assets.

The Authority shall maintain policies and procedures so that (1) Members and officers understand their fiduciary responsibilities, as described in the Authority’s By-Laws, (2) assets are managed properly and (3) the public purposes of the Authority are carried out. A failure to meet these obligations is a breach of fiduciary duty and can result in financial and other liability for the Members and the officers. Items (1) and (2) above are addressed, respectively, in separate policies entitled “Responsibilities of Members” and “Annual Statement of Investment Policy”. This document addresses item (3) and establishes internal controls that will help to protect the Authority’s assets and assist in their proper management.

**I. Internal Controls**

Members and officers shall ensure that the Authority is accountable for its programs and finances to its customers, the public and regulators. The Authority shall accomplish this through the development and maintenance of internal controls. Accordingly, the Authority shall comply with all applicable laws and ethical standards; adhere to its public mission; create and adhere to conflicts of interest, ethics, personnel and accounting policies; prepare and file annual financial data with appropriate federal and state regulatory authorities; and make its annual financial report available to all Members and any member of the public who requests it.

**Examples of Internal Controls**

Internal controls are systems of policies and procedures that protect the assets of the Authority, create reliable financial reporting, promote compliance with laws and regulations and achieve effective and efficient operations. These systems are not only related to accounting and reporting but also relate to communication processes, internally and externally, and include procedures for (1) handling funds received and expended by the Authority, (2) preparing appropriate and timely financial reporting to Members and officers, (3) conducting the annual audit of the Authority’s financial statements, (4) evaluating staff and programs, (5) maintaining inventory records of real and personal property and their whereabouts, and (6) implementing personnel, ethics and conflicts of interest policies.

## **II. Implementation and Monitoring of Internal Financial Controls**

### **A. Procedures for Monitoring Assets**

The Authority shall have procedures to monitor and record assets received, held and expended. These financial controls shall be described in an accounting policies and procedures manual. The manual shall be reviewed with and given to all Members and officers. It shall include procedures for:

- Preparing an annual income and expense budget and periodic reports (at least quarterly) comparing actual receipts and expenditures to the budget with timely variance explanations.
- Preparing multi-year financial plans, as required by the New York State Authorities Budget Office, including an actual versus estimated budget with an analysis and measurement of financial and operating performance.
- Writing and signing checks or vouchers and receiving, recording, securing and depositing cash and other receipts. Such procedures should ensure that no single individual is responsible for receiving, recording and depositing funds or writing and signing checks. Checks and balances are essential to make embezzlement more difficult.
- Ensuring that grants, subsidies and contributions received are properly recorded, accountings required as a condition of any grant are completed and restrictions on the use of such funds, such as contributions given for a restricted purpose (e.g., donated land with use restrictions), are obeyed.
- Monitoring the operating and financial risks of the Authority and maintaining records with respect to long-term liabilities (i.e., leases and employee benefit plans).
- Requisitioning, authorizing, verifying, recording and monitoring all expenditures, including payment of invoices, petty cash and other expenditures. Such procedures shall ensure that no single individual is permitted to request, authorize, verify and record expenditures. For example, the same person shall not be responsible for cash disbursements and bank reconciliations. These functions shall be assigned to different individuals.
- Accessing, inputting and changing electronic data maintained by the Authority. This process includes preserving electronic records, ensuring data compatibility when systems change and creating an appropriate records retention policy.
- Providing for regular oversight by an audit committee.

- Reporting to the audit committee or the Members by employees of allegations of fraud or financial improprieties.
- Ensuring that timely and appropriate financial reports are distributed to all Members and officers and reviewed by them.
- Providing procedures for approving contracts to which the Authority is a party, including securing competitive bids from vendors in accordance with applicable New York State laws.
- Retaining an updated organizational chart that makes clear the responsibilities of all individuals involved with the Authority, including Members, officers and employees.
- Preparing for the annual audit process in a timely manner.
- Developing a prudent investment strategy and providing proper oversight of the investment assets in compliance with New York law.
- Complying with governmental and other financial reporting requirements.
- Complying with obligations to Members, officers, employees and the public, including their right to a copy of the Authority's annual financial report.

#### **B. Various Roles Within the Authority**

There shall be periodically updated written job descriptions for Members, officers and employees. The work of the Authority will be more easily accomplished and problems will be avoided if all involved understand what is expected of them and the limits of their authority.

A comprehensive description of the executive director's job shall make clear his or her responsibilities in the day-to-day activities of the Authority and set forth exactly what information is expected by the Members and when it must be communicated. For example, if the Members expect monthly financial reports and bi-monthly programmatic reports, making those expectations clear from the beginning will avoid ambiguity and will clarify the responsibility for accountability to the Members.

Likewise, all other employees shall have written job descriptions and be advised of what is expected of them.

#### **C. Personnel Policies**

The Authority shall furnish to all non-union employees written personnel policies, including vacation and sick leave, health insurance and other benefits, evaluations, ordinary and overtime compensation, conflicts of interest and code of ethics. Such policies shall be furnished prior to commencement of employment, with changes in policies communicated on a regular basis.

The Authority shall furnish to all union employees a copy of the collective bargaining agreement by and between the Authority and the union.

**D. Training**

The Authority shall arrange for appropriate training for all involved, including new Members, officers and employees. This training shall include familiarity with the Authority's internal controls.

**E. Conflicts of Interest Policies and Code of Ethics**

The Authority shall adopt a "conflicts of interest policy" to make certain that Members, officers, employees and others who serve the Authority not have any personal or business interest that may conflict with their responsibilities to the Authority. The policy shall clearly state the procedures to be followed if a person's personal or financial interests may be advanced by an action of the Members. A written policy will be in addition to the provisions of Section 1107 of the New York Public Authorities Law.

The Authority shall also adopt a code of ethics to address integrity in day-to-day conduct by each Member, officer and employee. A written policy will be in addition to the provisions of Section 1107 of the New York Public Authorities Law.

All Members, officers and employees shall be given copies of both policies and sign a statement acknowledging that they have read them.

**F. The Audit Committee**

The Authority shall create an audit committee comprised of Members, all of whom shall possess the necessary skill to understand the duties and functions of the audit committee and shall be familiar with corporate financial and accounting practices. The audit committee shall act as a liaison to the Authority's independent external auditor who is a certified public accountant ("CPA") or firm of CPAs. The audit committee shall have the following responsibilities:

- Make recommendations to the entire group of Members regarding the selection of the independent external auditors, periodic review of their performance, review of the annual fees to be paid for services rendered by them and a review of each proposed audit plan developed by management and the external auditors.
- Review with the independent external auditors the Authority's annual financial statements and reports. Consider whether they are complete and consistent with information understood by the committee members.
- Review and evaluate the management letter received from the independent external auditors and discuss recommendations for any changes necessary to remedy problems identified in the letter.

- Maintain communication between the Members and independent external auditors by meeting on a regularly scheduled basis with an opportunity for the auditors and the audit committee to meet without management present. At the completion of the audit, review the audit fieldwork process with the auditors. Obtain an understanding of their evaluation of management and whether they encountered any difficulties or had any disagreements with management during their audit. Review material journal entries proposed by the auditors.

Audits are a factor in providing proper financial management oversight of the Authority. The audit committee shall interact with management to implement and monitor the internal control structure and to take steps that insure that the possible risks of fraud or embezzlement are mitigated. In order for an audit committee to function properly, it shall be made up of people who are independent of the day-to-day management of the organization. In addition to the audit committee's role in the preparation of the audit, its responsibilities include the following:

- Ensure that proper federal and state tax filings are completed timely, including payroll taxes.
- Understand the Authority's internal controls and have policies in place to update them as needed.
- Periodically review the Authority's insurance coverage and determine its adequacy.
- Make recommendations necessary to improve the Authority's efficiency and/or remedy problems identified by the committee or others.
- Identify and monitor related party transactions and review the conflict of interest, ethics and related party disclosure policies periodically and update as needed.
- Monitor any legal matters that could impact the financial health and reporting of the Authority.
- Institute and oversee any special investigatory work as needed.

Whatever form the audit committee takes, if at all possible at least one member shall have an understanding of financial matters and be comfortable reviewing financial reports and other financial records. No member of the audit committee shall ever be involved in any conflict of interest transaction, and no member of the audit committee shall be compensated in any manner by the Authority other than standard compensation, if any, paid generally to all Members.

The audit committee shall be familiar with the Authority's internal controls and report to the Members as appropriate the adequacy of the internal controls and any concerns raised by the staff or outside auditors.

#### **G. The Finance Committee**

The Authority shall create a finance committee comprised of Members, all of whom shall possess the necessary skill to understand the duties and functions of the finance committee. The responsibilities of the finance committee shall include, without limitation:

- Review proposals for the issuance of debt by the Authority.
- Prepare and submit to the Authorities Budget Office ("ABO"), in compliance with any deadline set by the ABO, a statement of intent to guide the Authority's issuance and overall amount of bonds, notes, or other debt obligations that the Authority may issue.
- Issue recommendations regarding the issuance of debt by the Authority.

#### **H. Independent Certified Public Accountants**

The Authority shall have procedures in place to ensure that the certified public accountant it engages has a good reputation in the marketplace, is qualified to perform the necessary work, commits to appropriate timeliness and offers a competitive fee. Before engaging an accounting firm, the Authority shall ask for a list of the firm's clients and contact some of them for references. In addition, the Authority shall request a copy of the firm's peer review report.

The Authority's auditors shall be viewed a resource for assistance with concerns about financial and other matters that arise during the year, not just during the audit fieldwork. The Authority shall make sure that its engagement with the audit firm includes an expectation that the firm may be called upon to provide such service.

The audit committee or the Members shall communicate regularly with the firm, making it aware of any problems and/or concerns with regard to the management of the Authority or its assets, whether there are steps that should be taken to ensure compliance with the existing internal control structure, or creation of new controls.

In addition to certifying the financial statements as part of the audit process, the auditors prepare a management letter to be sent to the Members, which discusses internal controls or other issues identified during the audit that concern the financial management of the Authority. Since the management letter is not a comprehensive evaluation and opinion on the internal controls (but rather just a by-product of the audit process), the Members shall decide whether further outside evaluation of the systems and procedures is warranted, and if so, by whom. The Members shall also revisit issues arising from prior year's management letters to make sure they have been addressed to the firm's satisfaction.

Before releasing the opinion on the financial statements, the auditors will request a signed management representation letter (typically signed by both a Member holding office, such as the chair or the treasurer, and the executive director or the chief financial officer). This letter constitutes the Authority's agreement to provide accurate financial information. Before signing the letter, the persons signing shall affirm the accuracy of the representations made therein.

**I. Review of the Authority's Governance Structure, Procedures and Programs**

The Members shall conduct a periodic review of the Authority's structure, procedures and programs in order to determine what is working well and what practices the Authority might want to change in order to be more efficient, effective or responsible.

**MONROE COUNTY WATER AUTHORITY**  
**POLICY FOR TRACKING AND DISPOSAL OF FIXED ASSETS**  
**REVISED 2021-2022**

Monroe County Water Authority (the "Authority") constitutes a public benefit corporation of the State of New York. The Authority fulfills a public mission and must comply with the provisions of applicable laws, including the New York Public Authorities Law. Because the Authority's assets are held for the public benefit, the Authority's Members and officers have a fiduciary duty to protect them. The following policy sets forth internal controls for the tracking and disposal of the Authority's fixed assets.

**1. Policy**

From time to time, the Executive Director shall approve the procedures for disposal of Authority assets, including those outlined below. The Director of Finance shall be responsible for the implementation and enforcement of this policy.

All employees must adhere to this policy and Department Heads are responsible for enforcing the policy within the departments. Any employee who willfully violates this policy will face disciplinary action.

**2. Purpose**

The Authority seeks to strengthen its established policy providing for orderly and consistent tracking and disposal of its assets, including assuring that such assets are properly tracked, re-deployed, sold, transferred or disposed of and that the Authority realizes the best value for those assets.

**3. Scope**

This policy applies to all fixed assets, which term includes property with a useful life of one year or longer and a value at the time of acquisition of over five thousand dollars (\$5,000.00) that are owned or leased by the Authority. Examples include buildings, furniture, fixtures, tools, equipment, vehicles, computer equipment, supplies and any other tangible goods purchased or leased by the Authority. Notwithstanding the foregoing, all computer equipment shall be subject to this policy.

**4. Tracking of Assets**

The Property Records Section shall assign an asset tag number to each fixed asset and record a full description of the asset and the Department to which the asset has been assigned. The tag number will allow the Authority to track each asset's deployment, redeployment and disposal.

The Finance and Business Services Department shall develop and implement more detailed procedures and appropriate reports for recording asset information.

**5. Periodic Inventory of Assets**

In order to properly track the Authority's assets, each Department shall cooperate with the Property Records Section to conduct requested physical inventories of all assets. A physical inventory shall be performed for each department periodically, but in no case less frequently than once every five (5) years.



The Property Records Section shall assign personnel from outside the Department to be audited and provide such personnel with a record of what assets have been deployed to the Department to be audited, listed by asset tag number. Personnel assigned to conduct any such audit shall be responsible for conducting requested inventories and reporting the results to the Property Records Section, making particular note of any discrepancies between the Property Records Section list and the assets physically present in the Department. Any significant discrepancies shall be reported to the Director of Finance within 30 days of the inventory request.

The Property Records Section shall investigate all discrepancies between its records and the results of any physical inventory. Following such investigation, the Property Records Section shall adjust its inventory and accounting records accordingly.

As part of each physical inventory, the Department shall identify assets that are no longer in use or should be disposed of or retired.

## **6. Identifying Assets for Disposal**

Department employees shall identify those assets to be disposed of or retired. These include assets that are no longer required, no longer functional, and/or that are no longer serving the purpose for which they were acquired.

- Computer equipment is subject to special disposal procedures as detailed below.
- Properties comprising the water system in excess of \$1,000,000. (See Section 704 of MCWA Trust Indenture.)

## **7. Classifying Assets**

Once assets have been identified for disposal, employees shall classify the assets into one of the following three categories:

1. *Waste*. This category includes materials or items that have no functional value or known intrinsic value. Examples of waste include abandoned pipe and items that are beyond repair.
2. *Scrap*. This category includes materials or items that have no functional value, but retain an intrinsic value due to the material out of which they are made. Examples of scrap include items made out of copper, brass or aluminum.
3. *Surplus*. This category includes materials or items that retain functional value and may or may not have an intrinsic value. Surplus items may be useful in other areas of the Authority. Examples of surplus items include desks, chairs, vehicles and computer equipment.

Following classification, employees shall record the asset to be disposed of, including the asset tag number, and forward the disposal request to the appropriate Department Head. The Department Head shall confirm the appropriate asset classification and review each asset disposal request.

Questions regarding proper asset classification should be directed to the Property Records Section.

## **8. Notification Regarding Disposal**

1. *Waste and Scrap.* The Department Head shall notify the Property Records Section of impending or consummated disposals of waste and scrap assets. Employees of the disposing Department will (i) inspect the asset to get the asset tag numbers and/or provide a sufficient description to identify the item in the records and (ii) forward such information to the cashier along with all payments received for such scrap.
2. *Surplus.* The Department Head shall notify the Property Records Section regarding assets classified as surplus. Such notification shall include the tag number and/or a description and location sufficient to uniquely identify the item. The Property Records Section, with the advice of the Director of Finance, shall determine whether the asset is appropriately classified as surplus.

## **9. Disposing of Authority Surplus/Waste/Scrap**

The Authority shall maximize the value of all unneeded assets. Accordingly, the Authority will attempt to sell unneeded assets in any available markets for fair market value. The Authority shall dispose of unneeded assets that are personal property having a fair market value at the time of disposal of more than five thousand dollars (\$5,000.00) and those unneeded assets that are classified as real property under the terms of the Disposal Guidelines, as those Guidelines are adopted and amended by the Members of the Authority. The Department Head shall use reasonable measures to determine whether the fair market value of unneeded personal property meets the threshold for disposal under the Guidelines and notify the Contracting Officer designated in the Guidelines of the property to be disposed of under the Guidelines. The Authority shall dispose of unneeded assets that are not subject to the Guidelines according to the procedures set out in this Section 9.

Unneeded assets may be sold through participation in the County of Monroe's public notice and auction process, use of any other public notice procedure, placement of ads in publications of general circulation or electronic classified ads or auction sites, or to employees by bid. It is the responsibility of the Department Head or those so delegated by him/*her* to determine the best method of disposal to achieve the greatest return. The Department Head will notify the Director of Finance of the preferred method for disposal of the asset. If the Department Head does not communicate a preferred method of sale, the Director of Finance may select the method of disposal that he or she determines will yield the greatest return, in its sole discretion.

Purchasing will place all ads and notices for sale of goods to the public, and post the same on all employee bulletin boards. The Property Records Section will post all items to be sold by employee bid on all employee bulletin boards, and control the bid opening and subsequent sale to Authority employees. Security for subject goods will be the responsibility of the Department Head, or those so delegated by him, presently in possession.

If the unneeded assets offered for sale are not sold within a reasonable time (60 days), the Department holding the assets shall so notify the Director of Finance. The Department Head may recommend donation of such items to governmental or not-for-profit organizations or any other disposition of the item. If any not-for-profit organization offered an asset does not accept the asset,

the Director of Finance may dispose of the asset by whatever means it deems appropriate. The Director of Finance shall dispose of unsold unneeded assets in the manner it deems most appropriate.

#### **10. Notification of Sale or Transfer**

Each Department that sells or transfers property must notify the Property Records Section and the Director of Finance. This notification shall include the tracking number and/or description of the item, the name of the purchaser or transferee, and the amount collected for the item.

#### **11. Proceeds From Sale**

All proceeds from the sale of unneeded assets must be remitted to the cashier along with a copy of the notification of sale for that item. Sales proceeds are to be remitted only by check made payable to the Monroe County Water Authority. The Director of Finance shall determine the proper allocation of funds received.

#### **12. Special Procedures for Computer Equipment and Software**

The Manager of Information Technology shall be responsible for the removal of any computer item, regardless of whether such item is being replaced.

A member of Information Technology will inspect the equipment and make a determination regarding its disposal and its asset classification. No computer equipment will be discarded if it is under warranty or lease.

In addition to the possibility of redeploying the computer equipment, Information Technology shall consider whether the equipment can be upgraded cost effectively or used as a spare or for parts.

Regardless of whether the computer equipment is to be redeployed, sold, donated or discarded, the Manager of Information Technology shall have removed all Authority information, files and licensed software from computers and peripherals. Information Technology shall mark all equipment with a sticker or other notice that indicates that an Information Technology staff member has removed all such information. Information Technology shall review relevant software licenses to determine whether the software installed on waste, scrap or surplus equipment may be reused within the Authority.

Once computer equipment has been classified and processed, Information Technology shall follow the procedures applicable to disposal of all other Authority assets.

**No computer hardware may be discarded in a trash can or dumpster. Computers are subject to special requirements regarding the disposal of hazardous materials. All computers identified as waste must be properly recycled and disposed.**

#### **13. Disposal of Authority Property Not Considered Fixed Assets**

The Authority purchases items for use in its business that are not classified as fixed assets ("Expensed Items"). Expensed Items are not tagged or included in the physical inventory process.

The Authority may dispose of Expensed Items from time to time by following the procedure set out in this Section 13.

- a) Employees shall be responsible for identifying and classifying Expensed Items to be disposed of or retired. Employees shall classify the Expensed Items according to Section 7 above. Employees shall not combine personal scrap sales with Authority sales and shall not utilize Authority equipment for personal scrapping operations.
- b) Scrap and surplus materials being accumulated for disposal shall be maintained in a secured location approved by the Department Head until it is transported off the Authority's site.
- c) Department Heads shall be responsible for approving or disapproving of the disposal of Expensed Items classified as surplus or scrap. Transport of surplus or scrap materials off-site shall only be by employees designated by the Department Head or a contract recycling vendor.
- d) The Department Head will forward to the cashier all payments received for sale of any Expensed Items along with documentation (e.g. weight slips) of the covered transaction. Cashier shall forward documentation of all such transactions to the Director of Finance.

#### **14. ~~Notification of Sale or Transfer~~**

~~Each Department that sells or transfers property must notify the Property Records Section and the Director of Finance. This notification shall include the tracking number and/or description of the item, the name of the purchaser or transferee, and the amount collected for the item.~~

## **RESPONSIBILITIES OF MEMBERS**

**READOPTED DECEMBER 2022**

Monroe County Water Authority (the “Authority”) constitutes a public benefit corporation of the State of New York. The Authority fulfills a public mission and must comply with applicable laws, including the New York Public Authorities Law. The following guidelines have been prepared to assist current and future Members of the Authority to understand and carry out their fiduciary responsibilities. These materials are in addition to applicable laws and offer suggestions for fulfilling the Authority’s and the individual’s public mission.

### **I. What Should a Prospective Member Know Before Joining the Board?**

Anyone considering accepting a position as a Member of the Authority is encouraged to do the following before joining:

- Read the Authority’s enabling legislation; by-laws; 1991 trust indenture and all amendments thereto; Rules for the Sale of Water and the Collection of Rents and Charges; and board and committee minutes for at least the last year to learn about the Authority’s governance, stated purposes, activities and concerns.
- Obtain a current list of Members and committee members and find out from the chair and the Authority’s Executive Director what is expected of Members. Try to determine the relationship between board and staff. Talk to current and recent former Members to learn about the roles and responsibilities of Members.
- Review the Authority's audited financial statements for at least the last two (2) years as well as its current internal financial reports to see how it uses its assets and to evaluate its financial health. Is its auditor's report on the Authority’s financial statements unqualified?
- Evaluate whether the filings, audit reports and other compliance requirements appear to be completed on a timely basis. Find out whether there are any tax issues or concerns, or notices received from governmental authorities. Find out what other filings might be required, including filing appropriate payroll tax forms and paying the appropriate taxes.
- Obtain an understanding of the internal control structure of the organization and the processes in place to monitor it. Determine whether the Authority has adopted and follows a current accounting policies and procedures manual. Review the past two (2) years’ management letters received from the public accountants and find out what has been done to remedy any problems.
- Understand the Authority’s mission, learn about its programs, read its publications, visit its program sites, look at its website and talk to key staff. Find out about its reputation in the community.

- Review the organizational chart and understand the accountability structure. Find out the backgrounds of key management. Understand the employee evaluation and compensation processes. Review due diligence procedures for material contracts and procurement.
- Make sure there is a conflict of interest policy and a code of ethics policy in place and that they are updated annually.
- Closely review Section 1107 of the New York Public Authorities Law. This provides that any Member, officer, employee or other such person will be guilty of a misdemeanor if they are in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor **which the authority is empowered by this title to make.**
- Determine whether the Authority has been reviewed by the Authorities Budget Office or audited by the Office of the State Comptroller or the Office of the Attorney General, and read any reports prepared in conjunction therewith.
- Determine the organization's auditors, their reputation and their performance of the audit process.
- Find out if materials to be considered by the Members or their committees are distributed in advance of meetings and whether they provide sufficient information.
- Obtain the current year's budget. Find out how it compares to actual income and expenses and what processes are in place to monitor these comparisons.
- Find out whether the insurance coverage appears to be appropriate, including Members and Officers' liability and employee fidelity insurance.
- Confirm the prospective Member can devote the time expected of a Member. Understand any responsibilities expected of Members. Participate in annual training provided to Members. Joining a board without sufficient time to devote to its business is often at the root of troubles faced by many boards.
- Understand that each Member will complete an annual self-evaluation in the form prescribed by the Authority's Governance Committee and furnish to the Authority biographical information that (except for confidential information) will be submitted to other governmental agencies as part of annual reporting by the Authority.

## **II. What are the Duties of Members?**

While the Members do not participate in the day-to-day activities of the Authority, they manage the Authority and must make crucial decisions, such as hiring and firing key officers and employees, engaging auditors and other professionals and authorizing significant financial

transactions and new program initiatives. In carrying out such responsibilities, Members must fulfill fiduciary duties to the Authority and the public it serves. These primary legal duties include the duties of care, loyalty and obedience.

#### **A. Duty of Care**

The duty of care requires a Member to be familiar with the Authority's finances and activities and to participate regularly in its governance. In carrying out these duties, Members must act in "good faith" using the "degree of diligence, care and skill" that "ordinarily" prudent people would use in similar positions and under similar circumstances. Ultimately, each Member must apply independent judgement in the best interest of the Authority, its mission and its ratepayers. The Authority's Budget Office requires each member to execute an acknowledgement of this duty upon taking his or her oath of office.

In exercising the duty of care, responsible Members should, among other things:

- Attend Member and committee meetings and actively participate in discussions and decision-making such as setting of policies. Carefully read the materials before the meetings and ask all relevant questions.
- Attend all compulsory training required for Members pursuant to Subsection 2 of Section 2824 of the New York Public Authorities Law.
- Read the minutes of prior meetings and all reports provided, including financial statements and reports by employees. Make sure their votes are completely and accurately recorded. Do not hesitate to suggest corrections, clarification and additions to the minutes or other formal documents.
- Obtain copies of the minutes of any missed committee or Member meeting and read them timely, suggesting any changes that may be appropriate.
- Make sure there is a clear process for approving major obligations and contracts pursuant to the Authority's By-Laws.
- Make sure that monthly financial reports prepared for management are available to the Members or finance and audit committees, and that they are clear and communicate proper information for stewardship. Make sure there is an ongoing actual to budget comparison with discrepancies explained.
- Participate in risk assessment and strategic planning discussions for the future of the Authority.
- As part of its oversight of the Authority, Members should confirm that the Authority has sufficient internal controls. Members should review annually and update, as necessary, every significant policy – many of

which are required by law or recommended as best practices by the Office of the State Comptroller or the Authorities Budget Office.

- Make sure the Authority has policies for records retention, whistleblower protection, and background checks for prospective employees.
- Be involved in the selection and periodic performance reviews of the Executive Director, Director of Finance and Business Services and other key employees responsible for the Authority's day-to-day activities. Members must ascertain whether these individuals have the appropriate education, skills and experience to assume a key position and then evaluate their performance.

## **B. Duty of Loyalty**

Members shall be subject to the Authority's written "conflict of interest" policy and should identify the types of transactions that would prohibit them from becoming or continuing to serve as Members.

The conflict of interest policy is in addition to the rules set forth in Section 1107 of the Public Authorities Law. This statute makes it a misdemeanor for a Member to engage in certain transactions. Given the criminal penalties for violating these rules, Members must identify any potential conflicts before they occur, so that an appropriate solution can be found.

Members and officers are charged with the duty to act in the interest of the Authority. This duty of loyalty requires that any conflict of interest, real or possible, always be disclosed before joining a board and when they arise. Members should avoid transactions in which they or their family members benefit personally. If such transactions are unavoidable, disclose them fully and completely to all Members.

To exercise this *duty of loyalty* Members must be careful to examine transactions that involve Members or officers. Members must not approve any transaction that is not fair and reasonable, and a conflicted Member may not participate in the board vote. Members should also confirm the Authority has a code of ethics that is updated annually.

Transactions involving conflicts should be fully documented in the board minutes, and conflicts policies and disclosure statements should be discussed with the organization's auditors, attorneys and, when necessary, its independent Ethics Board.

## **C. Duty of Obedience**

Members have the *duty of obedience* to make sure the Authority complies with applicable laws and regulations and its internal governance documents and policies, including:

- Dedicating the Authority's resources to its mission.
- Insuring that the Authority carries out its purposes and does not engage in unauthorized activities.



- Notifying the Authority if the Member moves his or her primary residence outside Monroe County; any such change in residence will disqualify the Member from further service.
- Notifying the Authority whenever a Member changes his or her political party.
- Within thirty (30) days after notice of appointment as a Member or the commencement of such Member's new or renewal term, signing an oath of office and having it acknowledged by and filed with the Monroe County Clerk. The Member shall immediately thereafter notify the Authority that the foregoing requirements have been satisfied.
- Filing annual financial disclosure statements in the format provided by the Authority, including providing updates if a material change occurs before the next annual filing date. The Authority or its independent Ethics Board will file all annual financial disclosure statements and updates with the Monroe County Ethics Board, which filing may be made for the Authority by its outside legal counsel.
- Complying with all appropriate laws, including complying with registration and reporting laws, filing any required financial reports with the Office of the Comptroller, the Attorney General, the State Worker's Compensation Board, the State Department of Taxation and Finance and the Internal Revenue Service, and paying all taxes such as Social Security and income tax withholding (federal, state and local). Members may be personally liable for failing to pay employees' wages and benefits and withholding taxes on employees' wages.

### **III. Identify, Understand and Update the Authority's Mission**

The Authority's mission statement reads as follows: *The Monroe County Water Authority is a not-for-profit public benefit corporation that reliably provides quality, affordable water that fosters economic vitality and enhanced quality of life for Monroe County and area communities who request service.*

Additional information regarding the Authority's purposes and public mission can be found in the Authority's enabling legislation. Members should understand the Authority's mission, confirm that the Authority's actions further its mission and periodically update the mission statement and all related policies and procedures.

## PROFESSIONAL SERVICES POLICY AND PROCEDURES

**READOPTED DECEMBER 2022**

### **DEFINITIONS**

***“Professional Service”***: A service that requires special or technical skill, training or expertise and that does not readily lend itself to competitive bidding. General guidelines for determining whether a service is a professional service are as follows:

1. Whether the service is subject to state licensing or testing requirements.
2. Whether substantial formal education or training is a necessary prerequisite to the performance of the service.
3. Whether the service requires a relationship of personal trust and confidence between the contractor and MCWA officials.

The term “Professional Service” specifically excludes services purchased from or exchanged with a governmental body or public benefit corporation.

***“RFQ/RFP - Request For Qualifications/Proposals”***: A written request seeking offers from prospective vendors. This method promotes competition based on qualifications and other factors that go beyond just price. Price Proposals can be solicited at the same time, or fees may be negotiated after selection of the most qualified provider.

***“Statements of Qualifications/Proposals”***: Written documents submitted in response to a RFQ/RFP, if so requested.

### **SELECTION**

A Request for Qualification/Proposal shall be prepared by the applicable Department Head. MCWA shall use reasonable efforts to circulate the RFQ/RFP, such as posting a copy on the MCWA website. If possible, Statements of Qualification/ Proposal shall be solicited from at least three (3) professional service providers.

Technical proposals generally require that potential service providers have extensive expertise in the field. Accordingly, the RFQ/P should include, where applicable, requests for written Statements of Qualifications/Proposals and personal interviews or similar presentations.

### **PAYMENT APPROVALS**

All Professional Services payments, with the exception of the Authority’s legal services providers, must be approved by an authorized Department Head. Approvals will be required as follows:

<b>Contract Value</b>	<b>Approval Required</b>
Up to \$14,999-	Department Head* and Reviewed by Director of Finance
\$15,000 and Above	Department Head*, Director of Finance, and Executive Director
*Of the Department originating the professional services payment authorization.	

## **CONTRACTS AND PURCHASE ORDERS**

All Professional Services shall be memorialized pursuant to a written contract (or purchase order) stating the services to be provided and any material terms. The term of any contract shall not exceed five (5) years. The contract shall specifically state the method by which any service provider shall be compensated. For continuing services, a new selection process shall be completed no less than every five (5) years. This does not preclude the same professional services firm or individual from proposing again after the prior five (5) years has elapsed.

**MONROE COUNTY WATER AUTHORITY PROCUREMENT  
DISCLOSURE POLICY  
(~~READOPTED~~ DECEMBER-2022)**

**PURPOSE**

As a public benefit corporation, the Monroe County Water Authority (the “Authority”) must conduct its operations in a manner that best serves the interests of its customers and the general public. The Authority expects all Members, officers and employees to comply and cause the Authority to comply with all laws and regulations governing business transactions. In 2005, the State Legislature adopted State Finance Law §§ 139-j and 139-k (the “Statutes”) to reform the procurement process for all governmental entities, including the Authority.

This Procurement Disclosure Policy is intended to conform the Authority’s procurement process to the requirements of the Statutes.

**ARTICLE 1  
DEFINITIONS**

As used herein, the following terms shall have the meanings set forth below:

**1. 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.

**2. Contacts**

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.

**3. Governmental Entity**

(a) Any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (b) each house of the state legislature; (c) the unified court system; (d) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (e) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (f) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (g) a subsidiary or affiliate of such a public authority.

**4. Governmental Procurement**

(a) the preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a Procurement Contract, (b) solicitation for a Procurement Contract, (c) evaluation of a Procurement Contract, (d) award, approval, denial or disapproval of a Procurement Contract, or (e) 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), renewal or extension of a Procurement Contract, or any other material change in the Procurement Contract resulting in a financial benefit to the Offerer.

## **5. Impermissible Contacts**

Contacts made by an Offerer shall be considered impermissible if the Offerer fails to satisfy the requirements of Article 4 and Article 5 hereof.

## **6. Offerer**

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.

## **7. Permissible Contacts**

Contacts made by an Offerer shall be considered permissible if the Offerer satisfies the requirements of Article 4 and Article 5 hereof.

## **8. Procurement Contract**

Any contract or other agreement for an Article of Procurement involving an estimated annualized expenditure in excess of Fifteen Thousand Dollars (\$15,000). Grants, article eleven- B 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.

## **9. Procurement Officer**

This term shall have the meaning set forth in Article 3 hereof.

## **10. Procurement Record**

This term shall have the meaning set forth in Article 6 hereof.

## **11. Proposal**

Any bid, quotation, offer or response to a Governmental Entity's solicitation of submissions relating to a procurement.

## **12. Restricted Period**

The period of time commencing with the earliest posting on the Authority's website or in a newspaper of general circulation of written notice, advertisement or solicitation of a proposal or bid, or any other method for soliciting a response from offerers intending to result in a procurement contract and ending with the final contract award and approval by the appropriate entity.

### **13. Solicitation Materials**

This term shall have the meaning set forth in paragraph (a) of Article 4 hereof.

#### **ARTICLE 2 ETHICS OFFICER**

On an annual basis, the Members of the Authority shall appoint a Chairperson of the Ethics Board established in the Authority's Code of Ethics Policy. The appointed Chairperson shall be the Authority's "Ethics Officer" for purposes of this Policy.

#### **ARTICLE 3 PROCUREMENT OFFICERS (AUTHORIZED AUTHORITY CONTACT PERSONS)**

The Members of the Authority hereby delegate to the Executive Director the power to select a "Procurement Officer" for each and every Governmental Procurement (collectively, the "Procurement Officers"). The Executive Director may either select the Procurement Officer at the time the Governmental Procurement commences or select a Procurement Officer in advance for each type or category of Governmental Procurement. Such Procurement Officer(s) shall be the designated "contact" person for Offerers during the Restricted Period surrounding each Governmental Procurement.

#### **ARTICLE 4 CONTACTS BY OFFERERS**

All Contacts between an Offerer and the Authority during the Restricted Period for each Governmental Procurement shall be made through the applicable Procurement Officer, unless one of the following exceptions applies:

- (a) The submission of written proposals in response to a request for proposals, invitation for bids or any other method of soliciting a response from Offerers intending to result in a Procurement Contract (collectively, "Solicitation Materials");
- (b) The submission of written questions to a designated contact set forth in any Solicitation Materials, when all written questions and responses are to be disseminated to all Offerers who have expressed interest in the Solicitation Materials;
- (c) Participation in a conference provided for in any Solicitation Materials;
- (d) Complaints made in writing to the Executive Director by an Offerer regarding the failure of the applicable Procurement Officer to respond in a timely manner to authorized Offerer Contacts, provided that such written complaints become part of the Procurement Record;
- (e) Offerers who have been tentatively awarded a contract and are communicating with the Authority for the sole purpose of negotiating the contract, so long as the Contact occurs after the Offerer has received notice of the tentative award;

- (f) Contact between designated Authority staff and an Offerer in which the Offerer requests the review of a procurement award;
- (g) Contacts by Offerers in protests, appeals or other review proceedings before the Authority seeking a final administrative determination, or in a subsequent judicial proceeding;
- (h) Complaints of alleged improper conduct in a Governmental Procurement to the Attorney General, Inspector General, District Attorney, or court of competent jurisdiction; or
- (i) Written complaints to the State Comptroller's Office during the process of contract approval, when the State Comptroller's approval is required by law, provided that such written complaints become part of the Procurement Record; and
- (j) Complaints of improper conduct in a Governmental Procurement conducted by a municipal agency or local legislative body to the State Comptroller's Office.

The Statutes and this Policy permit communications between Offerers and the Authority prior to the Restricted Period in the form of a request for information ("RFI") by the Authority and the response thereto by the Offerer. The RFI must be used as a means to collect information upon which to base a decision by the Authority to proceed with a Governmental Procurement and not as a tool employed to award a Procurement Contract.

## **ARTICLE 5**

### **OTHER PROHIBITED OFFERER ACTIVITIES**

In addition to utilizing the designated Procurement Officer for all Contacts with the Authority, the following additional rules shall apply to all Offerers:

- (a) Offerers shall not attempt to influence the Authority's Governmental Procurement in a manner that would result in a violation of any State ethics/conflict of interest statute or the Authority's Code of Ethics or Conflict of Interest Policies; and
- (b) Offerers are prohibited from contacting any member, officer or employee of a governmental entity other than the Authority<sup>1</sup>, during the Restricted Period of a Governmental Procurement, regarding the Authority's pending procurement.

## **ARTICLE 6**

### **PROCUREMENT RECORD**

For each Governmental Procurement of the Authority, the applicable Procurement Officer shall maintain a procurement record (the "Procurement Record"), including all written materials pertaining to the specific Governmental Procurement. Upon any Contact in the Restricted Period, the Procurement Officer shall obtain the name, address, telephone number, place of principal employment and occupation of the person or organization making the Contact and inquire and record whether the person or organization making such contact was the Offerer or was retained, employed or designated by or on behalf of the Offerer to appear before or

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<sup>1</sup> This prohibition is not applicable to Contacts between an Offerer and a member of the state legislature or legislative staff about a governmental entity other than the State Legislature, or a member of the state legislature or legislative staff contacting a governmental entity about a Governmental Procurement being conducted by a governmental entity other than the state legislature, provided that the member of the state legislature or legislative staff is acting in their official capacity.

contact the Authority about the Governmental Procurement. The Procurement Record shall include all recorded Contacts described in the prior sentence, whether such Contacts are Permissible Contacts or Impermissible Contacts. The Procurement Record shall not include Contacts with certain public officials as described in the footnote to item (b) of Article 5 hereof. In addition, the Procurement Record shall not include communications that a reasonable person would infer are not intended to influence a Governmental Procurement. The Authority shall keep a written or electronic copy of the Procurement Record for a period of six years from the end of the Restricted Period for each Governmental Procurement.

## **ARTICLE 7 REQUIRED DISCLOSURE**

In general, all Solicitation Materials shall incorporate a summary of the policy and prohibitions of the Statutes as well as include copies of rules, regulations and the Authority's guidelines and procedures regarding Permissible Contacts during a Governmental Procurement. The following provisions offer specific methods for satisfying such requirements.

1. In all Authority Solicitation Materials, the following statement shall appear:

*Pursuant to State Finance Law §§139-j and 139-k, this solicitation [or other applicable identifier, i.e. "Invitation for Bid" or "Request for Proposal," etc.] includes and imposes certain restrictions on communications between a Governmental Entity (including the Authority) and an Offerer during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest posting on the Authority's website or in a newspaper of general circulation of written notice of intent to solicit offers through final award and approval of the Procurement Contract by the Authority and, if applicable, the Office of the State Comptroller [the Authority may delete the reference to Comptroller approval when not applicable] ("restricted period"), to other than the Authority's Procurement Officer unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The Authority's Procurement Officer(s) for this Governmental Procurement, as of the date hereof, is identified on the first page of this solicitation [or wherever in the bid documents it is identified]. Authority employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four (4) year period, the Offerer/bidder is debarred from obtaining government Procurement Contracts. Further information about these requirements may be obtained from the Procurement Officer.*

2. In all Authority Procurement Contracts, the following provision shall appear:



*The Authority reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with State Finance Law §139-k (5) was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Offerer in accordance with the written notice terms of this contract.”*

3. In each response to any Solicitation Materials, the Offerer shall complete the following in a timely and accurate fashion:

(a) “Offerer Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j(3) and 139-j (6)(b)” in the manner discussed in Appendix “A” hereto;

(b) “ Offerer Certification of Compliance with State Finance Law § 139-k (5)” in the manner discussed in Appendix “B” hereto; and

(c) “Offerer Disclosure of Prior Non-Responsibility Determinations” in the form provided as Appendix “B” hereto.

The failure of an Offerer to comply with such disclosure requirements will subject the Offerer to the sanctions described in Article 10 hereof, as well as any other penalties permitted by law.

## **ARTICLE 8**

### **REQUIREMENTS OF THE AUTHORITY PRIOR TO AWARING PROCUREMENT CONTRACTS**

Prior to conducting an award of a Procurement Contract, the Members of the Authority shall:

1. Make a final determination of responsibility of the proposed awardee in accordance with the Authority’s existing procedures;

2. Make a final determination of responsibility of the proposed awardee that measures compliance with the State Finance law provisions regarding (i) Permissible Contacts and (ii) disclosure of all information required in any Solicitation Materials (including, but not limited to, prior findings of non-responsibility by a Governmental Entity); and

3. Make a final determination that the procurement process for such proposed award was free from any conduct prohibited under the Public Officers Law as well as the applicable provisions of the Authority’s Code of Ethics and/or Conflict of Interest Policies.

## **ARTICLE 9**

### **ALLEGED VIOLATION; PROCEDURE**

1. Any Member, officer or employee of the Authority who becomes aware that an Offerer has violated this Policy or the Statutes shall:

(a) Immediately notify the Ethics Officer, who shall immediately investigate the alleged violation(s) and report to the Authority’s Governance Committee.

(b) If, after commencing the investigation, the Ethics Officer finds that there is sufficient cause to believe the alleged violation has occurred, s/he shall give the alleged violating Offerer reasonable notice (in the form of a certified letter, return receipt requested) informing him/her of the allegations and providing him/her with an opportunity to be heard regarding the allegations.

(c) If, following the opportunity to be heard, the Ethics Officer determines that the Offerer has knowingly and willfully violated this Policy, the 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.

2. The Ethics Officer shall report to the ethics officer of another Governmental Entity any violation of the statutes by an Offerer or by such other Governmental Entity's employees. The Ethics Officer shall be the person designated to receive similar communications coming from another Governmental Entity.

## **ARTICLE 10 SANCTIONS**

1. Upon a finding by the Ethics Officer, after consult with the Governance Committee, that an Offerer has knowingly and willfully violated this Policy, the 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 such Offerer (along with its subsidiaries and any other related or successor entity) shall not be awarded the Procurement Contract, unless the Authority finds that the following special circumstances exist:

- (i) The award to the offending Offerer is necessary to protect public property or public health or safety; and
- (ii) The offending Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe.

(b) In addition, the Ethics Officer shall notify the State Office of General Services of the finding of non-responsibility<sup>2</sup>.

2. Upon a finding that a Member, officer or employee of the Authority has knowingly and willfully violated this Policy, the Statutes or any other applicable procurement disclosure standards affecting Members, officers or employees of the Authority, the Ethics Officer shall immediately notify the Executive Director of the Authority or the Chair of the Board of the Authority. The offending Member, officer or employee shall be subject to the sanctions described in the Authority's Code of Ethics Policy.

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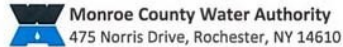
<sup>2</sup> A second finding of non-responsibility under the Statutes within four (4) years will render the Offerer (along with its subsidiaries and any other related or successor entities) ineligible to submit a proposal on or be awarded any Procurement Contract for four (4) years from the date of the second final determination of non-responsibility, unless the special circumstances outlined in Section (a) of this Article 10 exist.

## **DISTRIBUTION OF THIS POLICY**

This Policy shall be distributed annually to the Authority's Members and officers. It shall also be distributed annually to those employees that have the ability to affect any Procurement. It shall also be distributed to each new Member, officer and applicable employee as soon as practicable following commencement of such position.

## APPENDIX A

### OFFERER'S AFFIRMATION OF UNDERSTANDING OF AND AGREEMENT PURSUANT TO STATE FINANCE LAW §139-J(6)(b)



#### STATE FINANCE LAW §§139-J & 139-K

Pursuant to State Finance Law §§139-j and 139-k, this Invitation to Bid includes and imposes certain restrictions on communications between a Governmental Entity (including the Authority) and a Bidder/Officer during the procurement process. A Bidder/Officer is restricted from making contacts from the earliest posting on the Authority's website or in a newspaper of general circulation of written notice of intent to solicit offers through final award and approval of the Procurement Contract by the Authority other than to the Authority's Procurement Officers unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The Authority's Procurement Officers for this Governmental Procurement, as of the date hereof, are identified below. Authority employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Bidder/Officer pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and, in the event of two findings within a four-year period, the Bidder/Officer shall be debarred from obtaining governmental procurement contracts. Further information about these requirements may be obtained from the Procurement Officers.

The Procurement Officers for this Bid are:

- Name of Officer \_\_\_\_\_ (585) 442-2001 x --- \_\_\_\_\_ Email Address
- Name of Officer \_\_\_\_\_ (585) 442-2001 x --- \_\_\_\_\_ Email Address
- Name of Officer \_\_\_\_\_ (585) 442-2001 x --- \_\_\_\_\_ Email Address
- Name of Officer \_\_\_\_\_ (585) 442-2001 x --- \_\_\_\_\_ Email Address
- Name of Officer \_\_\_\_\_ (585) 442-2001 x --- \_\_\_\_\_ Email Address

The Authority reserves the right to terminate this contract in the event it is found that the certification filed by the Bidder/Officer in accordance with State Finance Law §139-k(5) was intentionally false or intentionally incomplete. Upon such finding, the Authority may exercise its termination right by providing written notification to the Offerer in accordance with the written notice terms of this contract.

## AFFIRMATION OF UNDERSTANDING

### OFFERER'S AFFIRMATION OF UNDERSTANDING OF AND AGREEMENT PURSUANT TO STATE FINANCE LAW §139-j(3) AND §139-j(6)(b)

#### BACKGROUND

State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerers as to the Offerer's understanding of an agreement to comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

#### INSTRUCTIONS

The Monroe County Water Authority must obtain the required affirmation of understanding and agreement to comply with procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period for a procurement contract in accordance with State Finance Law §§139-j and 139-k. It is recommended that this affirmation be obtained as early as possible in the procurement process, such as when the contractor submits its proposal or bid.

#### AFFIRMATION OF UNDERSTANDING & AGREEMENT

Offerer affirms that he/she understands and agrees to comply with the procedures of the Monroe County Water Authority relative to permissible Contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Offerer or Authorized Representative

Name: \_\_\_\_\_ Tide: \_\_\_\_\_  
Please Print

Bidder's Name \_\_\_\_\_

Bidder's Address \_\_\_\_\_

\_\_\_\_\_

**APPENDIX B**  
**BIDDER/OFFERER DISCLOSURE OF**  
**PRIOR NON-RESPONSIBILITY DETERMINATION & AFFIRMATION/CERTIFICATION**  
**IN ACCORDANCE WITH NYS FINANCE LAW 139-J AND 139-K**



**BIDDER/OFFERER DISCLOSURE**

**BIDDER/OFFERER DISCLOSURE**  
**OF**  
**PRIOR NON-RESPONSIBILITY DETERMINATION & AFFIRMATION/CERTIFICATION**  
**IN ACCORDANCE WITH NYS FINANCE LAW 139-J AND 139-K**

**BACKGROUND**

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true, and accurate.

**INSTRUCTIONS**

The Monroe County Water Authority must obtain the required certification that the information is complete, true, and accurate regarding any prior findings of non-responsibility, such as non-responsibility pursuant to State Finance Law §139-j. The Offerer must agree to the certification and provide it to the procuring Governmental Entity.

Name of Individual or Entity Seeking to Enter into the Procurement Contract: \_\_\_\_\_

Address: \_\_\_\_\_

Name & Title of Person Submitting this Form: \_\_\_\_\_

CONTRACT PROCUREMENT NUMBER: \_\_\_\_\_ Date: \_\_\_\_\_

1. In the previous four years, has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract?

☐ No ☐ Yes

If yes, answer the next questions.

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law 139-j?

☐ No ☐ Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?

☐ No ☐ Yes

## BIDDER/OFFERER DISCLOSURE

4. If you answered YES to any of the above questions, provide details regarding the finding of non-responsibility below.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-Responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Add additional pages as necessary.]

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information?

☐ No ☐ Yes

6. If yes, provide details below:

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding: \_\_\_\_\_

Basis of Termination or Withholding: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Add additional pages as necessary.)

By signing below, Bidder/Offerer affirms that he/she understands and agrees to comply with the Monroe County Water Authority's Procurement Disclosure Policy, Code of Ethics Policy, and Conflict of Interest Policy as required by State Finance Law 139-j(3) and 139-j(6)(2) and certifies that all information provided to the Water Authority with respect to State Finance Law 139-j and 139-k is complete, true, and accurate.

By: \_\_\_\_\_  
(Signature of Person Certifying)

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

## BIDDER/OFFERER DISCLOSURE

Bidder/Offerer Name: \_\_\_\_\_  
(Company Name)

Bidder/Offerer Address: \_\_\_\_\_

\_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_



**PROJECT NO.** \_\_\_\_\_

**MCWA PROCUREMENT NO.** \_\_\_\_\_

**MCWA PROCUREMENT COMPLIANCE FORM**

In 2006, New York State adopted extensive changes to the Procurement Laws. Monroe County Water Authority (the "Authority") adopted a Procurement Disclosure Policy in order to comply with the new rules. In particular, Article 8, Section 3 requires that the Authority make a final determination that the procurement process for each proposed award was free from any conduct prohibited under the Public Officers Law as well as the applicable provisions of the Authority's Code of Ethics and/or Conflict of Interest Policies. The Members must make this determination for each procurement. In order to provide sufficient information for the Members to make such determination, the following attestation shall be made by the staff of the Authority:

The procurement process involving \_\_\_\_\_  
**product or service**  
that commenced in \_\_\_\_\_  
**month and year**

\_\_\_\_\_ did not involve conduct prohibited by the Public Officers Law, the Authority's Procurement Disclosure Policy and the Authority's Code of Ethics and/or Conflicts of Interest Policies. This attestation is made by the Procurement Officer(s) (as such term is defined in the Authority's Procurement Disclosure Policy) and is limited to such person's personal knowledge.

In the event that an impermissible contact has occurred after date of signature on this form, it will be immediately reported to the Executive Director.

**By:** \_\_\_\_\_  
(Signature of Person Certifying)

**Date:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Print Title:** \_\_\_\_\_