

**MONROE COUNTY WATER AUTHORITY PROCUREMENT  
DISCLOSURE POLICY  
(~~READOPTED DECEMBER~~ JANUARY 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 AWARDING 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: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Person Certifying)

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

**PROFESSIONAL SERVICES POLICY AND PROCEDURES**  
**READOPTED ~~DECEMBER~~ JANUARY 2022-2020**

**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

## MEMORANDUM

**To:** Scott Nasca, Chairman  
MCWA Board Members

**Date:** January 3, 2022

**From:** Amy A. Molinari, Director of Finance & Business Services

**Subject:** NYS Low Income Household Water Assistance Program

**Copies:** N. Noce

The NYS Office of Temporary and Disability Assistance (OTDA) is administering the Low-Income Household Water Assistance Program (LIHWAP) funded through the Consolidated Appropriations Act of 2021, and the American Rescue Plan Act of 2021. New York received \$69.8 million to assist low-income households with drinking and wastewater bills.

Our customers will be able to apply for up to \$2,500 in assistance for unpaid water bills through a portal on the OTDA website. The Authority's anticipated launch date of the application process is January 13, 2022 and will continue through September 30, 2023 or until funding is exhausted. Phase one will target households with unpaid water bills. If funding is available phase two will assist low-income households in paying current water bills.

Once approved by the Board, I will register the Authority as an eligible vendor to receive payments should any of our customers apply and receive assistance. As a condition of participation, the Authority must execute a Vendor Agreement. I have included a copy of the correspondence we received from OTDA and the Vendor Agreement.

Please feel free to contact me should you have any questions.

From: [otda.sm.NYSLIHWAP.vendor](mailto:otda.sm.NYSLIHWAP.vendor@otda.ny.gov)  
<[NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov)<<mailto:NYSLIHWAP.vendor@otda.ny.gov>>>  
Sent: Monday, December 20, 2021 2:55 PM  
To: Information <[Information@MCWA.com](mailto:Information@MCWA.com)<<mailto:Information@MCWA.com>>>  
Subject: New York State Low Income Household Water Assistance Program (LIHWAP)  
Vendor Agreement

[New York State of Opportunity – Office of Temporary and Disability Assistance]

Kathy Hochul

Governor

BARBARA C. GUINN

Executive Deputy Commissioner

December 20, 2021

Dear New York State Drinking Water and/or Wastewater Supplier:

This is to provide you with information and a Vendor Agreement for the New York State Low Income Household Water Assistance Program (LIHWAP). Please review all enclosed materials carefully.

LIHWAP was established through the Consolidated Appropriations Act, 2021 and the American Rescue Plan Act, 2021. New York State will use these funds to assist low income households, particularly those with the lowest incomes, that pay a high proportion of household income for drinking water and wastewater services. Benefits will be issued directly to drinking water and wastewater providers to restore or prevent loss of drinking water or wastewater services. The Office of Temporary and Disability Assistance (OTDA) will operationalize LIHWAP benefits in two phases. Phase one funding and outreach will target households with arrears for unpaid charges for drinking water and/or wastewater services. In phase two, OTDA will reevaluate available funding and if feasible, focus on establishing a benefit to assist eligible households with current drinking water and/or wastewater bills. This is a New York State administered program that will start December 2021 and end on September 30, 2023, or when funding is exhausted, whichever occurs first.

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#### Vendor Agreement:

- A signed Vendor Agreement and completed Substitute Form W9/AC 3237-S (Rev. 1/17) are required in order to participate in and receive LIHWAP payments. The signed agreement will apply to all customers in your service territory within New York State. Vendor Agreements and program participation will be managed centrally by OTDA through the LIHWAP Bureau.

- Please review all documents carefully before signing.

- You may not make any changes to the Vendor Agreement, please contact us if you have any questions  
at: [NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov)<mailto:[NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov)>.

#### Vendor Payment and Remittance Information:

- Payments will be made directly to vendors via Electronic Funds Transfer issued through the NYS Office of the Comptroller (OSC).

- The OSC State Vendor Resource Page is available  
at: <https://www.osc.state.ny.us/state-vendors>. This resource page provides information and guidance to vendors on their payments and how to view those payments through the self-service vendor portal.

- Vendors who need assistance in enrolling in the online Vendor Self Service application: <http://www.sfs.ny.gov>, should contact the Statewide Financial System (SFS) Help Desk at either (855) 233-8363  
or [helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov)<mailto:[helpdesk@sfs.ny.gov](mailto:helpdesk@sfs.ny.gov)>.

Please return the signed Vendor Agreement and completed Substitute Form W9/AC 3237-S (Rev. 1/17)  
forms as soon as possible to:

New York State OTDA  
LIHWAP Bureau  
PO Box 1789  
Albany, NY 12201

Phone: (518) 473-0332

Fax: (518) 486-1259

Email: [NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov)<mailto:[NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov)>

Your company's name will not be added to the NYS LIHWAP vendor list until a signed agreement and a completed Substitute Form W9/AC 3237-S (Rev. 1/17) is on file.

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We look forward to continuing to work with your company and staff as we assist LIHWAP eligible households in meeting their drinking water and/or wastewater needs. Please contact the NYS LIHWAP Bureau staff at (518) 473-0332 with any questions or concerns.

Sincerely,

/s/ AB/ 12-20-2021

Andrew Bryk  
HEAP/LIHWAP Bureau Chief  
Employment and Income Support Programs

Attachments (3):

LIHWAP Vendor Agreement  
Attachment 1 - OTDA Security and Confidentiality Terms  
Substitute Form W9/AC 3237-S (Rev. 1/17)



## Office of Temporary and Disability Assistance

### NEW YORK STATE LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM VENDOR AGREEMENT

This Agreement ("Agreement") shall govern the purchase of water services from the Water Service Provider (Vendor) on behalf of households eligible for the Low Income Household Water Assistance Program (LIHWAP). Federal funds awarded under LIHWAP shall be used as part of an overall emergency effort to prevent, prepare for, and respond to the COVID-19 pandemic, with the public health focus of ensuring that low income households have access to drinking water and wastewater services. The funds will be used to cover and/or reduce arrearages, rates and fees associated with reconnection or prevention of disconnection of services. If funding is available, the New York State Office of Temporary and Disability Assistance (NYS OTDA) will evaluate providing bill assistance to eligible households to reduce the household's cost for drinking water and wastewater services. This Agreement is a contract between NYS OTDA and the Vendor for the provision of direct vendor payments to assist low income households with drinking water and wastewater reconnection and ongoing services.

The parties acknowledge that this Agreement and the services provided by the Vendor are governed by and subject to federal laws and regulations in addition to issued federal and State guidance in relation to the Low Income Household Water Assistance Program.

In order to receive LIHWAP payments on behalf of eligible households, the Vendor agrees and assures to NYS OTDA to abide by the below listed provisions contained in this agreement. Drinking water and/or wastewater service benefits paid directly to Vendors will be issued through the NYS Office of the State Comptroller (NYS OSC).

1. Households receiving assistance from LIHWAP shall not be treated adversely on the basis of receipt of such assistance under applicable provision of the LIHWAP Supplemental Terms and Conditions 11h under Federal LIHWAP Assistance Listing No. 93.568(B) (with modifications based on P.L. 116-260).
2. Vendors will not discriminate, either in the costs of goods supplied or the services provided, against the household on whose behalf LIHWAP payments are made.
3. The Vendor understands that payment and satisfaction of any claims under LIHWAP will be made by NYS OTDA, through the NYS OSC. The Vendor further understands that they must comply with all applicable requirements of the Consolidated Appropriations Act of 2021 (CAA) and the American Rescue Plan Act of 2021 (ARPA), as well as all applicable policy determinations and directives of the NYS OTDA. The Vendor may be prosecuted under applicable federal and/or State law for false claims, statements or documents or concealment of material fact.
4. The Vendor agrees to accept all LIHWAP benefits authorized on behalf of residential customers and without imposing any conditions precedent. "Residential customer" is defined in accordance with Title 16 of the New York Compilation of Codes, Rules and Regulations, Part 14.2(b)(18).
5. The Vendor agrees to continue, establish or reestablish service for LIHWAP authorized residential customers and maintain such service for such LIHWAP authorized residential customer for ninety (90) calendar days after receipt of each LIHWAP benefit authorized and received on behalf of residential customers.

6. The Vendor agrees that arrears are charges for which payment has not been made more than 20 calendar days after payment was due. A payment is considered to be made on the date when it is received by the Vendor or one of its authorized agents. Payment is due whenever specified by a Vendor on its bill, as long as the date is not before the bill is hand-delivered to the customer, or less than three (3) calendar days after the bill is mailed.
7. Vendors may not transfer or cash-out LIHWAP benefits to recipients. Unexpended funds due to account closing and/or incorrect payments and funds that are unable to be credited to a recipient's account must be returned to NYS OTDA no later than thirty (30) business days after discovery, or September 30<sup>th</sup> of the current program year, whichever comes first, or upon request by NYS OTDA. A LIHWAP Vendor Refund Form must accompany all refunds. The vendor must contact NYS OTDA for a copy of this form at: [NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov).
8. The Vendor cannot apply LIHWAP payments to commercial accounts for non-residential services. LIHWAP payments must only be applied to LIHWAP authorized residential customer accounts.
9. The Vendor shall maintain an accounting system and supporting fiscal records adequate to audit for a period of not less than three program years (current year plus three years) and will otherwise verify the proper disbursement of LIHWAP funds. The Vendor shall allow NYS OTDA representatives access to all books and records relating to LIHWAP households for the purpose of compliance verification with this Agreement.
10. The Vendor shall permit and cooperate with federal and/or State audits and/or investigations undertaken in accordance with the CAA, and ARPA, and also any State and/or county investigations undertaken to ensure program integrity.
11. The Vendor shall treat all information relative to LIHWAP and, in particular, information relating to recipients, as confidential information, and shall not use any information so obtained in any manner except as necessary to the proper discharge of their obligation and the securement of their rights hereunder. The Vendor further agrees to protect all confidential information in accordance with all applicable federal and State laws, rules and regulations. The Vendor further agrees to abide, at a minimum, by the requirements set forth in Attachment 1, the OTDA Security and Confidentiality Terms.
12. The Vendor agrees to continue or restore service for the minimum time periods outlined in this agreement when notified by NYS OTDA that a LIHWAP benefit will be issued on behalf of an eligible household and vendor acknowledges acceptance of LIHWAP benefits. The time period begins from the date of the earliest notification by NYS OTDA.
13. The Vendor agrees to clearly identify the amount of LIHWAP payment(s) received in a manner which identifies the payment as received from LIHWAP on household statements, receipts, or accounts.
14. The Vendor understands that failure to cooperate with any Federal, State, or local investigation, audit, or program review may result in the immediate disqualification from participation in LIHWAP.
15. The Vendor agrees to take corrective action in the time frame specified by NYS OTDA if violations of this Agreement are discovered. Corrective action may include, but is not limited to, providing detailed documentation of changes made and detailed plans for future changes that will bring the Vendor into compliance. The vendor understands that failure to implement corrective actions may result in the immediate disqualification from participation in LIHWAP.
16. This Agreement shall remain in effect unless superseded by another Agreement or terminated by either party. A written agreement must be submitted thirty (30) business days in advance of the effective date to replace, modify or terminate the agreement.

17. Vendor agrees that any modification to this agreement must be reviewed and agreed to by NYS OTDA. Vendor agreement modification must be made in writing and submitted to NYS OTDA through [NYSLIHWAP.vendor@otda.ny.gov](mailto:NYSLIHWAP.vendor@otda.ny.gov).

☐ Check here to hereby declare to the New York State Office of Temporary and Disability Assistance (NYS OTDA) that you, the vendor or vendor's representative, have the authority to bind such vendor, that you have read and understand the above, and that it is your intention to sign and submit this Vendor Agreement on behalf of the vendor to NYS OTDA, and further agree that the vendor will comply with and abide by the Vendor Agreement while participating as a Vendor in the New York State Low Income Household Water Assistance Program.

Vendor or Vendor's Representative name \_\_\_\_\_

Vendor or Vendor's Representative signature \_\_\_\_\_

Vendor Business Name \_\_\_\_\_

Address \_\_\_\_\_

Vendor TIN \_\_\_\_\_

Vendor Type:

\_\_\_\_\_ Drinking Water

\_\_\_\_\_ Wastewater

\_\_\_\_\_ Combined Drinking Water/Wastewater

Primary Contact \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

FAX \_\_\_\_\_

Secondary Contact \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

FAX \_\_\_\_\_