



FAQ on Vendor Communications with ITS

Vendors are prohibited by law from communicating with ITS about active procurements unless specifically authorized by ITS

Why does this law exist?

This law, called the Procurement Lobbying Law, seeks to preserve a fair and level playing field for all potential vendors in an active procurement by prohibiting vendors and their agents from “attempting to influence” government decision-makers.

What is an active procurement?

An active procurement starts when ITS solicits or requests bids, proposals, quotes or other offerings from vendors and ends with the final contract approval, which may be by the Office of the State Comptroller. This period of time may be referred to as a “restricted period.” During the period of time between ITS’s solicitation or request for bids, proposals, quotes or other offerings and final contract approval, vendors and vendor agents may only contact certain, specified ITS staff about the active procurement. ITS will identify the staff who vendors may communicate with about these active procurements.

How do I know if there is an active procurement?

Certain active procurements are listed on ITS’s website as being in a restricted period. You may visit the ITS website and search “restricted period” for the current listing.

Additionally, if you have received, know of, or learn about a solicitation or request that ITS has made, issued or published for bids, proposals, quotes or other offerings, then you should consider yourself notified of an active procurement.

Who at ITS can talk to a vendor about an active procurement?

Active procurements under a restricted period have what are called “designated agency contacts” and/or “solicitation contacts.” The designated agency and solicitation contact names are listed on the ITS restricted period list on ITS’s website. Vendor inquiries should be redirected to these contacts and will be recorded.

Additionally, any solicitation or request for bids, proposals, quotes or other offerings issued by ITS identify the ITS staff who the vendor may contact about the solicitation or request.

Who issues procurements for ITS?

The only people who can issue or otherwise manage procurements on behalf of ITS are staff within ITS’s Procurement Office. Issuing and managing procurements includes activities including but not limited to requesting or soliciting quotes or bids, issuing solicitations, answering vendors’ questions about procurements and communicating with the Offices of the State Comptroller and the Attorney General about procurements.

Who can submit or transmit quotes, bids and other proposals to ITS in response to a solicitation?

ITS will only accept quotes, bids and other proposals from vendors who are eligible to bid on the solicitation.

What happens if a vendor attempts to influence an active procurement by communicating with, or attempting to communicate with, incorrect ITS staff about an active procurement?

If ITS has reason to believe that a vendor or a vendor's agent has attempted to influence an active procurement by communicating with, or attempting to communicate with, incorrect ITS staff about an active procurement, the attempt must be reported to ITS's Counsel's Office and an investigation must be completed. Vendors may ultimately be deemed non-responsible as a result of the investigation and, further, may be barred from contracting with New York State if there are multiple violations.

Can vendors communicate with ITS about existing agency contracts?

The law covers solicitations or requests for new contracts. The law is not intended to stop ITS from managing existing agency contracts, however, an existing contract that is in the process of being renewed or amended should be considered an "active procurement." Discussions about ongoing work related to existing contracts is acceptable, however, discussions about the renewal or amendment, or work contemplated by the renewal or amendment, is not.

Can vendors communicate with ITS about product offerings?

Vendors are always welcome to present ideas and demonstrations about their product offerings to ITS. Vendors interested in offering such demonstrations should submit a request using the meeting request form at <http://its.ny.gov/vendor-meeting-request-form>. If an ITS employee would like follow up meetings with a vendor about a vendor's offerings, such meetings are acceptable *as long as there are no communications about an active procurement*. ITS staff have been instructed to make their supervisors aware of who they are meeting with and why.

ITS may be obligated to report these types of meetings in the Project Sunlight database, a public facing database that provides the public with an opportunity to see the individuals and entities that are interacting with government decision-makers. For more information on Project Sunlight, please visit <http://www.projectsunlight.ny.gov/>.