

# ETHICS REMINDERS

## *Contracting with the State?* What a State employee can and cannot do

### Overview

Do you have an outside business and want to sell its goods or services to a State agency? Public Officers Law (“POL”) § 73(4)(a)(i) permits a State officer (generally meaning, for purposes of this discussion, a statewide elected official, agency head, or employee), or a company owned or controlled by a State officer, to sell goods and services to a State agency only pursuant to an award or contract issued after public notice and competitive bidding. You should also take note of the following restrictions:

- While the State Finance Law does not require a State agency to bid a contract for goods or services in all circumstances, POL § 73(4) prohibits a State officer from seeking a no-bid contract from any State agency.
- A State officer may not be compensated in any way for an appearance in support of the bid on the contract. For instance, a State officer is prohibited from accepting compensation to appear at a bidders’ conference.
- The spouse of a State officer may bid for a contract from the officer’s agency only when the contract is awarded after public notice and competitive bidding, and the State officer has no involvement with awarding the contract or designing the bid criteria.

**Violations of Public Officers Law § 73, including the revolving door provisions, can result in a maximum fine of \$40,000 and the value of any gift, compensation, or benefit received in connection with such violation, and are punishable as a class A misdemeanor.**



### *Remember:*

The Joint Commission on Public Ethics periodically releases Ethics Reminders. Each reminder is a brief and easy to understand synopsis of the laws and rules under the Commission’s jurisdiction. Ethics Reminders are issued to assist those subject to the Commission’s jurisdiction in understanding and complying with their obligations under the law.