

**UNITED NATIONS DEVELOPMENT CORPORATION**  
**REGULATORY FORMS PACKAGE**

REVISED 11-02-2022

*THIS SECTION IS TO BE COMPLETED BY UNDC OR UNDC'S PROPERTY MANAGER*

Contract / Procurement name or description:

Designated contact person(s): \_\_\_\_\_

# **SUMMARY OF REGULATORY REQUIREMENTS**

Prospective bidders must comply with the following requirements:

## **I. PROCUREMENT LOBBYING RESTRICTIONS**

New York State Finance Law Sections 139-j and 139-k (the Procurement Lobbying Law) restrict attempts to influence governmental procurements involving an estimated annualized expenditure in excess of \$15,000. If applicable, bidders must comply with the attached UNDC Permissible Contacts Policy and must submit the attached Procurement Lobbying Law Form with their bid or proposal. For more information, please see the Procurement Lobbying Law Frequently Asked Questions at <https://ogs.ny.gov/ACPL/>.

## **II. CONTRACTOR CERTIFICATIONS TO UNDC AND THE TAX DEPARTMENT**

***NOTE THESE CERTIFICATIONS SHOULD ONLY BE FILED BY THE WINNING BIDDER.***

New York State Tax Law Section 5-a requires certain contractors awarded certain state contracts valued at more than \$100,000 to file Form ST-220-CA with UNDC, and Form ST-220-TD with the Tax Department before a contract may take effect. Section 5-a does not apply to contracts for architectural, engineering or surveying services. The more than \$100,000 threshold is determined based on the estimated value of the contract over its full term, excluding possible renewal terms. Forms ST-220-CA and ST-220-TD and a guidance document (Publication 223) are available at <http://www.tax.ny.gov/>.

***NOTE A CONTRACTOR MUST FILE A NEW FORM ST-220-CA WITH UNDC BEFORE AN EXISTING CONTRACT WITH UNDC MAY BE RENEWED.***

## **III. VENDOR QUESTIONNAIRE**

Vendors seeking a UNDC contract valued at more than \$15,000 must submit the attached Vendor Questionnaire with their bid or proposal.

## **UNDC PERMISSIBLE CONTACTS POLICY**

### **Overview**

New York State Finance Law Sections 139-j and 139-k imposes certain restrictions on communications between UNDC and offerers during the procurement process for contracts with an estimated annualized expenditure in excess of \$15,000. These requirements apply to “Contacts” that are intended to influence UNDC’s conduct or decision regarding a procurement during the “Restricted Period” that starts when UNDC issues a written notice or advertisement soliciting responses from offerers and ends with the final contract award. Offerers are restricted from making contacts during the restricted period to other than designated staff unless it is a permissible contact as described below. Designated staff for this procurement is identified on the first page of this package. UNDC members, officers and employees are required to make a written record of any contact in the restricted period. All recorded contacts will be included in the procurement record.

Contract amendments, extensions, renewals, or change orders that are authorized and payable under the terms of a contract do not trigger a restricted period, however an amendment that was not contemplated in the original contract would be subject to a restricted period.

### **Permissible Contacts**

Offerers should only contact designated staff regarding a procurement, except that the following contacts do not need to be directed to designated staff pursuant to State Finance Law Section 139-k.

(1) the submission of written proposals in response to a request for proposals; (2) the submission of written questions when all written questions and responses are to be disseminated to all offerers who have expressed interest in the request for proposals; (3) participation in a meeting in a setting open to all potential bidders provided for in a request for proposals; (4) complaints by an offerer regarding the failure of designated staff to respond in a timely manner to authorized offerer contacts made in writing to the general counsel of UNDC; (5) offerers who have been tentatively awarded a contract and are engaged in communications with UNDC solely for the purpose of negotiating the terms of the procurement contract after being notified of tentative award; (6) contacts between designated staff and an offerer to request the review of a procurement contract award; (7) contacts by offerers in protests, appeals or other review proceedings before UNDC seeking a final administrative determination, or in a subsequent judicial proceeding; (8) communications between offerers and UNDC that solely address the determination of responsibility by UNDC of an offerer.

### **Impermissible Contacts**

Impermissible contacts are not permitted and are required to be recorded by the person contacted, made a part of the procurement record, and reported to UNDC’s ethics officer.

Impermissible contact occurs when an offerer contacts someone at UNDC or another governmental entity other than designated staff in an attempt to influence a UNDC procurement.

Impermissible contact also occurs when an offerer attempts to influence a UNDC procurement in a manner that would result in a violation or an attempted violation of Section 73(5) or Section 74 of the Public Officers Law. Section 73(5) of the Public Officers Law prohibits any person from making any gift having more than a nominal value to any state officer or employee under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. Section 74 of the Public Officers Law (the State Code of Ethics) is available on the website of the New York State Commission on Ethics and Lobbying in Government at <https://ethics.ny.gov/>.

Offerers are also prohibited from making impermissible contacts to UNDC in an attempt to influence

another governmental entity's procurement.

### **Process for Review of Alleged Impermissible Contacts**

UNDC's ethics officer will immediately review and investigate any allegation of an impermissible contact and, if sufficient cause exists to believe that such allegation is true, will give the offerer reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation. UNDC will provide the offerer with a final determination in writing. If the allegation of impermissible contact involves another governmental entity's procurement, UNDC will immediately forward such information to the appropriate individual at the procuring governmental entity for review and investigation at the procuring governmental entity.

### **Penalties for Violations**

A finding that an offerer has knowingly and willfully violated the permissible contact requirements of State Finance Law Section 139-j will result in a determination of non-responsibility for such offerer, and such offerer will not be awarded the procurement contract, unless UNDC finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that UNDC will include in the procurement record a statement describing the basis for such a finding. Any subsequent determination of non-responsibility due to violation of Section 139-j within four years of a determination of non-responsibility due to a violation of Section 139-j will result in the offerer being rendered ineligible to submit a proposal on or be awarded any procurement contract for a period of four years from the date of the second final determination.

Upon a determination of non-responsibility or debarment due to a violation of Section 139-j, UNDC will notify the New York State Office of General Services, which will keep a list of all offerers who have been determined to be nonresponsible bidders or debarred due to violations of Section 139-j; the Office of General Services will make publicly available such list and will publish such list on its web site. In addition, UNDC is required to submit a record of each impermissible contact to the Public Authorities Reporting Information System as part of its annual report.

### **Determination of Responsibility & Disclosure of Past Findings of Non-Responsibility**

Prior to awarding a procurement contract, UNDC will make a determination of responsibility of the proposed awardee according to its procurement guidelines. UNDC's solicitations of bids or proposals for procurement contracts will require offerers to disclose findings of non-responsibility made within the previous four years by any governmental entity where such prior finding of non-responsibility was due to: (a) a violation of Section 139-j, or (b) the intentional provision of false or incomplete information to a governmental entity. The failure of an offerer to timely disclose accurate or complete information to UNDC pursuant to this requirement will be considered by UNDC in its determination of the responsibility of such offerer. No procurement contract will be awarded to any such offerer unless UNDC finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that UNDC will include in the procurement record a statement describing the basis for such a finding.

### **Other Requirements**

UNDC will seek written affirmations from all offerers as to the offerer's understanding of and agreement to comply with UNDC's procedures relating to permissible contacts during a UNDC procurement. UNDC procurement contracts will contain a certification by the offerer that all information provided to UNDC with respect to Section 139-k is complete, true and accurate, and each such procurement contract will contain a provision authorizing UNDC to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete.

**PROCUREMENT LOBBYING LAW FORM**

**Offerer Disclosure of Prior Non-Responsibility Determinations**

1. Has any governmental entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the procurement contract within the previous four years due to: (a) a violation of State Finance Law §139-j, or (b) the intentional provision of false or incomplete information to a governmental entity, or (c) any other reason?

No  Yes

If yes, please provide details regarding the finding of non-responsibility including the name of the governmental entity, the date of the finding of non-responsibility, and the basis of the finding of non-responsibility. Attach additional pages as necessary.

2. Has any governmental entity or other governmental agency terminated or withheld a procurement contract with the individual or entity seeking to enter into the procurement contract due to the intentional provision of false or incomplete information?

No  Yes

If yes, please provide details including the name of the governmental entity, the date of termination or withholding of contract, and the basis of termination or withholding. Attach additional pages as necessary.

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**Offerer Certification of Compliance with State Finance Law §139-k(5)**

By signing this form, offerer certifies that all information provided to UNDC with respect to State Finance Law §139-k is complete, true, and accurate.

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**Offerer Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j(3) and §139-j(6)(b)**

By signing this form, offerer affirms that it understands and agrees to comply with the procedures of UNDC relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

Signature: \_\_\_\_\_

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

Name & Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

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

## VENDOR QUESTIONNAIRE

**Please answer "Yes" or "No" for each of the following questions:**

1. Does vendor have the financial resources necessary to fulfill the requirements of the proposed contract?

No  Yes

2. Within the past five years has your firm, any affiliate, any predecessor company or entity, owner, officer or partner been the subject of:

A. an indictment, judgment, conviction, or a grant of immunity, including pending actions, for any business-related conduct constituting a crime under governmental law?

No  Yes

B. a government suspension or debarment, rejection of any bid or disapproval of any proposed subcontract, including pending actions, for lack of responsibility, denial or revocation of prequalification or a voluntary exclusion agreement?

No  Yes

C. any governmental determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful"?

No  Yes

D. a consent order with NYS Department of Environmental Conservation, or a governmental enforcement determination involving a construction-related violation of federal, state or local environmental laws?

No  Yes

E. a finding of non-responsibility by a governmental agency or Authority for any reason, including but not limited to the intentional provision of false or incomplete information as required by State Finance Law Section 139-j?

No  Yes

**If you answered yes to any of A – E above, please attach additional sheets and provide the following details regarding the finding: entity making finding, year of finding, and basis of finding.**

The undersigned does hereby state and certify that the information given above is true, accurate and complete.

Signature: \_\_\_\_\_

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

Name & Title: \_\_\_\_\_

Contractor Name: \_\_\_\_\_

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