Non-Instructional/Business Operations

SUBJECT: RESTRICTIONS ON CONTACT

This Regulation shall be provided to, and acknowledged by, the District's Designated RFP/Bid Evaluation Teams, including those empaneled to score the proposals and the designated contact(s) referenced by the solicitation for every RFP/Bid released. This Regulation shall be provided to the Board, Cabinet, Division Heads, and Purchase Department Staff annually in July. The Designated RFP/Bid Contact soliciting proposals shall be responsible for ensuring all evaluation team members and designated contact read, understand and fully comply with the RFP/Bid solicitation terms. It is also the responsibility of the designated contact person to require and collect from all evaluation team members the established acknowledgement form concerning the restricted period. Additionally, a thorough procurement record must be kept regarding all contact and documents relative to the RFP/Bid. This Regulation serves as a reminder that impermissible contact during the restricted period of a procurement (meaning during the time the RFP/Bid first made available to the public through the date of the award) must be documented and will not be tolerated.

1. **Definitions under State Finance Law 139-J:**
    a. **Restricted Period** – the period from when an RFP/Bid is first made available to the public, until the Board makes an award.
    b. **Offerer** – an 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.
    c. **Permissible Contact** – only those Permissible Offerer contacts outlined in the RFP/Bid, and only to the Designated RFP/Bid Contact(s). (e.g. Contact such as submitting written questions during the Q&A period, attending a public bidders' conference, submitting a written bid or proposal, responding to factual inquiries, or negotiating with the District after a tentative award).
    d. **Impermissible Contact** – any oral, written, or electronic communication with the District which a reasonable person would believe is intended to influence District Procurement.

2. **Restrictions on Contacts – An Offerer shall not make Impermissible Contacts during the Restricted Period of the RFP/Bid.**

    The Designated RFP/Bid Contact, along with the Department of Purchase shall ensure that the RFP/Bid terms advise that the District honors the "Restrictions on Contacts" as outlined in State Finance Law 139-j, and as such, violations of the restrictions on contacts during procurement may result in an Offerer's proposal being disqualified for an award under this RFP/Bid and the Offerer being debarred from government contracts in New York State for up to four years, as determined by the NYS Office of General Services.

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Bidders/Offerers will also be provided a certification as part of the RFP/Bid acknowledging that they understand they are not allowed to contact or lobby or have any third party contact or lobby the District during the restricted period of any procurement with the intent to influence the procurement in any way. Further, the Offerer shall acknowledge they understand that to do so may result in their proposal being disqualified. This signed certification will be a part of the RFP/Bid package and shall be executed and submitted with any proposals.

District Personnel shall refrain from any communications regarding an ongoing/pending RFP/Bid. Failure to comply runs the risk of allegations that District Personnel engaged in impermissible contact, fraud, corruption, favoritism, and/or other unlawful contact. As such, if anyone, who is not the Designated RFP/Bid Contact receives an Impermissible Contact from an Offerer they should not respond; however, they must keep a record of the contact as outlined below.

3. **Pre-Procurement Communications –** District staff is prohibited from releasing internal details regarding any specific procurement opportunity that may not be publicly available to all potential bidders, this includes but is not limited to budget parameters. This prohibition also extends to any consultants regarding the procurement.

4. **The only communication should be by the Designated RFP/Bid Contact, as outlined below:**

    a. **RFP/Bid Contact Log Maintained by the Designated RFP/Bid Contact -** During the Restricted Period, the Designated RFP/Bid Contact and evaluation team are responsible for maintaining a log of Offerer Contacts, both Permissible and Impermissible. This log should:
        i. Contain the subject matter, date, and communication method.
        ii. Contain the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact.
        iii. Indicate whether the person or organization making the contact was the Offerer or was retained, employed or designated by or on behalf of the Offerer or a lobbyist.
        iv. Immediately be provided to the Chief Financial Officer (CFO) if a contact has been reasonably considered to be Impermissible.
        v. Become part of the official procurement record for the RFP/Bid.

    b. **Impermissible Contacts Made to Other District Staff and Board Members –** Details of impermissible contacts should immediately be provided to the CFO, with the same details as outlined in the RFP/Bid Contact Log above.

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5. <u>Investigation of Impermissible Contacts</u> – The CFO will investigate alleged Impermissible Contacts, providing an opportunity for the Offerer to respond. If, after the investigation, a determination is made that the Offerer made Impermissible Contacts with the intent to influence the procurement, they may be deemed not responsible and disqualified for an award under this RFP/Bid and may be debarred from government contracts in New York State for up to four years, as determined by the New York State Office of General Services.

Date _____ RFP/Bid # _____

RFP/Bid Name _____

Designated RFP/Bid Contact Acknowledgement _____

Evaluator 2 Acknowledgement _____

Evaluator 3 Acknowledgement _____

Evaluator 4 Acknowledgement _____

Evaluator 5 Acknowledgement _____

Evaluator 6 Acknowledgement _____

Evaluator 7 Acknowledgement _____

Evaluator 8 Acknowledgement _____