

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT CORPORATION

Guidelines Regarding the Use, Awarding, Monitoring
and Reporting of Procurement Contracts

Effective May 2009

The following guidelines (the "Guidelines") are applicable with respect to the use, awarding, monitoring and reporting of procurement contracts of the New York State Urban Development Corporation d/b/a Empire State Development Corporation and its subsidiaries (collectively, "ESDC" or the "Corporation").

A. Definition

Procurement contracts are any written agreements for the acquisition of goods or services of any kind, or the granting of a franchise or a concession, in the actual or estimated amount of fifteen thousand dollars or more. For purposes of compliance with State Finance Law Section 139-j and 139-k (see Section D(1)(c) below), "Procurement Contract" shall also include the purchase, sale, lease or grant of any other interest in real property which involves an estimated annualized expenditure in excess of fifteen thousand dollars. All such contracts are hereinafter referred to as "Procurement Contracts" or "Contracts".

B. Procurement Contracts for Personal Service

1. Areas of responsibility and oversight requiring Procurement Contracts for personal service include, but are not limited to, the performance of legal, accounting, management consulting, investment banking, planning, training, statistical, research, public relations, architectural, engineering, construction, surveying, or other services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such services as officers or employees of ESDC.
2. The reasons for use of Procurement Contracts for personal service include, but are not limited to:
 - a. Requirements of special expertise or unusual qualifications;
 - b. Nature, magnitude or complexity of services required;
 - c. Lack of sufficient in-house resources, support staff, specialized facilities or equipment;
 - d. Lower cost;

- e. Short term need for the services;
- f. Infrequent need for the services; and
- g. Distance of the location or locations where the services must be performed from Corporation offices or facilities;

C. Procurement Contracts for Goods

The types of goods requiring Procurement Contracts include:

- 1. Goods needed in order to proceed with a project of ESDC; and
- 2. Goods needed in order to support the administrative needs of ESDC.

D. Procurement Procedures

1. General

- a. Procurement Contracts are to be awarded to persons/firms on a competitive basis to the maximum extent practicable. Such awards are to be made after notice is published in the New York State Contract Reporter (unless exempted pursuant to applicable provisions of the Economic Development Law) and after the evaluation of proposals obtained, when practicable, from at least three qualified persons/firms responding.
- b. Prior approval of the Chief Executive Officer ("CEO") or Executive Vice President ("EVP") when you need to advertise a procurement opportunity, including Requests for Proposals ("RFPs"), Requests for Statements of Qualification ("RFQs"), Requests for Expressions of Interest ("RFEIs"), etc. is required. Submit the ESDC Procurement Opportunity Advertisement Approval form, attached to these Guidelines for your convenience (and also available on ESD drop down menu under Procurement/Administration), to the CEO at least 10 business days in advance of the relevant Contract Reporter deadline.
- c. Although competitive solicitations are to be used to the maximum extent practicable, all procurement contracts, whether competitively bid or not, are subject to State Finance Law Sections 139-j and 139-k, and State Tax Law Section 5-a. A memorandum summarizing New York State Finance Law Sections 139-j and 139-k is attached to these guidelines as attachment 2. [Please note that this memo is not included as an attachment at all. Please include in a logical place and then renumber the others accordingly and consistently throughout the document.] The Corporation's Policy Regarding Permissible

Contracts under State Finance Law Section 139-j and 139-k is attached to these guidelines as attachment 4 and required language for solicitations by ESDC and its subsidiaries is attached to these guidelines as attachment 3.

(i) State Finance Law Sections 139-j and 139-k

The requirements of State Finance Law Sections 139-j and 139-k (1) govern permissible communications between potential Respondents and ESDC and its subsidiaries or other involved governmental entities with respect to solicitation during the procurement process; and (2) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract.

Compliance with State Finance Law Sections 139-j and 139-k requires that all communications regarding any solicitation, from the issuance of the solicitation through the final award and approval of any resulting contract (the "Restricted Period"), be conducted only with permitted ESDC contact persons identified in the solicitation materials. Compliance with these provisions further requires completion by respondents of the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law (139-j (3) and 139-j (5) (b) (copy of this form is attached to these guidelines as attachment 4 b); and the Offerer Disclosure of Prior Non-Responsibility Determinations (139-k (2) (copy of this form attached to these guidelines as attachment 6) and periodic updating of such forms during the term of any contract resulting from a solicitation. These two forms are also available on the ESD web site

(<http://www.empire.state.ny.us/rfp/requiredforms.html>).

Respondents must submit each of the two forms (The Offerer Disclosure of Prior Non-Responsibility Determinations (139-k (2)), and the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law (139-j (3) and 139-j (5) (b)), properly completed, as part of their proposals.

Staff must also obtain and report certain information when contacted by prospective bidders during the Restricted Period, make a determination of the responsibility of bidders and make all such information publicly available in accordance with applicable law. ESDC is required to record any contacts that reasonably appear to be an attempt to influence the procurement process and contacts with persons other than the designated contact persons during the Restricted Period of a procurement. In addition to obtaining the required identifying information, staff must inquire and record whether the person or organization that made the Contact was the Offerer or was retained, employed or designated on behalf of the Offerer

to appear before or contact ESDC, using the Government Entity Record of Contact under State Finance Law 130-k (4) (a copy of which is attached to these guidelines as attachment 4 a). If a prospective bidder is found to have knowingly and willfully violated the State Finance Law provisions, that prospective bidder and its subsidiaries, related or successor entities will be determined to be a non-responsible bidder and will not be awarded any contract issued pursuant to the solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract.

(ii) State Tax Law Section 5-a

The requirements of State Tax Law Section 5-a ("STL 5-a") prohibit the Corporation and its subsidiaries from approving any contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all respondents to a solicitation must include in their responses a properly completed Form ST-220-CA, a copy of which is attached to these Guidelines as attachment 5 and accessible at

<http://www.empire.state.ny.us/rfp/requiredforms.html>. Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Failure to include a properly completed ST-220-CA is a basis for considering any such response incomplete and nonresponsive and for exclusion from consideration for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub consultants.

- d. Competitive solicitations shall be preceded, where practicable, by the preparation of reasonable cost estimates for the proposed Contracts. Such cost estimates shall be the responsibility of the ESDC staff members initiating such requests for proposals.
- e. Competitive solicitations should include ESDC's standard short form contract, including Schedule A (Conditions Applicable to UDC Consultant Agreements) and Schedule C (ESDC's Non-Discrimination and Affirmative Action Consultant Contract Provisions), New York State Finance Law Sections 139-j and 139-k required language for solicitations by ESDC and its subsidiaries,

attached to these guidelines as attachment 4 and Insurance requirements. Insurance requirements must be obtained from Contract Administration for all competitive solicitations. This also holds true for Standard Architect Agreement, Standard Retainer Agreement or Standard Form Amendment or Modification of Contract.

- f. Solicitations should clearly name all persona at ESDC)or subsidiary_ who are to be “permitted contacts” for third parties for purposes of communications regarding the solicitation.
- g. All solicitations should be made available on the ESDC (or subsidiary) website after advertisement in the NYS Contract Reporter.
- h. Written selection criteria shall generally be established for each proposed Contract and shall be included in any written solicitation materials. The selection criteria shall generally include price as an important factor to be considered in the selection process. Analysis of the proposals and/or bids submitted and the award of the Contract shall be documented in reasonable detail. Awards to other than the low bidder shall include in such documentation the reason the low bidder was not selected. Responses to solicitations generally should not be considered complete or responsive unless the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law (139-j (3) and 139-j (5) (b) and the Offerer Disclosure of Prior Non-Responsibility Determinations and Tax Law Section 5-a are properly completed and included in the response package. Memoranda summarizing the requirements of New York State Finance Law Sections 139-j and 139-k and Tax Law Section 5-a containing the forms necessary for compliance are attached to these Guidelines.
- i. All proposals should be received at one designated location within the initiating department, and immediately should be stamped with the date and time of receipt. Two or more ESDC staff members should be present at bid openings. See the ESDC Bid Opening Guidelines attached at Attachment 7.
- j. The initiator shall be responsible to create and maintain a record of the procurement process. Such record shall contain documentation (the procurement record) related to the procurement process, any competitive solicitation exemption, proposals and/or bids received, scoring sheets or similar documents prepared or used by the bid reviewers and awards made.(Refer to attachment 7, ESDC Bid Opening Guidelines.)

2. Competitive Process

Competition in the procurement process serves the interests of both the Corporation and prospective providers of goods or services by ensuring that the procurement process produces an optimal solution at a reasonable price; guarding against favoritism, fraud and collusion; and allowing qualified vendors an opportunity to obtain Corporation business.

a. Contract Reporter

Generally, ESDC is required to advertise in the **New York State Contract Reporter** all contracts for the acquisition of goods and services of \$15,000 or more. In order to access the online system and place the advertisement, the originator must obtain a user ID number from Contract Administration.

b. Contract Reporter Exemptions

- (i) Bases for Exemptions. An advertisement in the Contract Reporter may be eligible for exemption if any of the following circumstances can reasonably be demonstrated. Please note that even if a Contract Reporter exemption is available, compliance with State Finance Law Section 139-j and 139-k and 5-a must still be satisfied. There must also be a formal statement from the originator that the price obtained for the goods or service is compatible with market pricing.

Emergency or Critical Circumstances. Emergency or critical circumstances exist when an urgent and unexpected situation arises which places public or health safety or the use or conservation of resources at risk and requires immediate action. Poor planning does not constitute an emergency. Contracts entered into as a result of an emergency situation should be for only the goods or services reasonably necessary to stabilize, ameliorate or remedy the situation. Notwithstanding any Contract Reporter exemption that may be granted for emergency or critical circumstances, reasonable attempt should be made where practicable to solicit at least three oral competitive bids, with written confirmation furnished within a reasonable time and maintained in the Contract file.

Infeasibility. Infeasibility of advertising exists when a situation or set of circumstances arises which would render advertising in the Contract Reporter impracticable or inappropriate or would serve no useful purpose. Infeasibility can arise in, but is not limited to, "sole source" and "single source" situations, described below:

Sole source. Only one source for the goods or services is available.

Single Source. The required goods or services are available from two or more vendors, but a particular vendor is preferable because of specific factors such as, without limitation, past experience with a particular issue; familiarity with the Corporation's operations; experience with similar projects of the Corporation, other agencies or at other levels of

government; demonstrated expertise; or capacity and willingness to respond to the situation.

- (ii) Authorization. The initiator of the proposed Contract must obtain a written exemption authorization. This is done by means of a memorandum to the General Counsel for subsequent approval by the Chief Executive Officer or Executive Vice President.

The memorandum requesting the exemption must document in reasonable detail: the circumstances establishing the emergency or infeasibility exemption justification; a description of the goods or services to be acquired via the exemption; any alternatives considered; and the basis for determining that the cost of the proposed Contract is reasonable under the circumstances.

If the proposed Contract amount is \$50,000 or more, the exemption authorization must be obtained before ESDC Directors approval. If the proposed Contract amount is less than \$50,000, the exemption authorization must be obtained prior to contract execution and the commencement of any services or delivery of any goods.

c. Additional Solicitation.

Where practicable and appropriate, those responsible for a proposed Contract should make reasonable efforts to identify potential vendors in addition to those identified through the Contract Reporter. This may be accomplished by obtaining referrals from other governmental entities that may have similar requirements, reviewing reference directories, mailing solicitation materials to industry associations and/or known vendors and mailing to lists of appropriate minority and women-owned businesses maintained by the Corporation's affirmative action department.

d. Solicitation Techniques.

There is a continuum of procurement techniques ranging from **Invitation for Bid (IFB)**, **Request for Proposals (RFP)** and **Request for Statements of Qualification (RFQ)**. When selecting among these various approaches, the two determining factors are:

- The importance of price or cost as a component in the review of incoming bids or proposals; and
- The ability to define specifications for goods or services being acquired.

Generally, goods are to be awarded on the basis of "lowest price" and services are to be awarded on the basis of "best value" among responsive and responsible offerers. "Best value" is the basis for awarding all service and technology contracts to the offerer which optimizes quality, cost and efficiency, among responsive and

responsible offerers. Such basis shall be, wherever possible, quantifiable.

However, all Procurement solicitations issued by the Corporation are guided by the same basic principles.

Clarity: Procurement documents should clearly convey to vendors what it is ESDC wants to buy.

Fairness: No vendor should be advantaged over another. All information concerning the solicitation shall be conveyed in writing to all offerers participating in the process including, but not limited to process rules and evaluation criteria.

Openness: All relevant vendors should have an equal opportunity to respond to the offering.

Disclosure: The method of awards should be developed **before** bids/proposals are received. Vendors should know generally the basis upon which their offers are being judged.

Efficiency: The process should be efficient, fair and able to withstand public scrutiny. The interest of the State and its taxpayers should prevail.

(i) **Invitation for Bid (IFB)**

The IFB methodology is appropriate for those situations where the needed goods or services can be translated into exact specifications **and** the award can be made on the basis of **lowest price, or best value**, when the best value determination can be made on price alone. When the IFB is used to purchase services, it is awarded on the basis of "best value". When IFB is used to purchase goods, it is awarded on the basis on lowest price.

The IFB should provide prospective offerers with all the information necessary to develop a responsive bid. Most **IFBs** follow a common format focusing on a description of task including but not limited to:

- A clear and descriptive specifications or requirements that define the goods or services; and
- Specifications of the required qualifications of offerers and the mandatory contract terms and conditions.

(ii) **Requests for Proposals (RFP)**

RFP's solicitations may range from relatively uncomplicated

procurements to highly complex, long term efforts involving significant commitment of both ESDC and offerer resources.

RFPs follow a common format focusing on a description of task including but not limited to:

- Description of program objectives and background;
- Scope of services to be provided;
- Detailed requirements or specifications ("what" is needed and "how" services should be provided) but may not knowingly favor a particular offerer; these requirements are outlined in attachments 2-9,
- The required qualifications of offerers and the mandatory contract terms and conditions.

(iii) **Requests for statements of qualification (RFQ)**

For retention of qualified pools of contractors to provide goods or defined types or scopes of services needed on a regular or semi-regular basis as the need arises; or to select professional services to be rendered at pre-established rates.

3. **NYS Office of General Services ("OGS") Centralized Contracts**

Goods and services needed by the Corporation may be available, without the need for competitive procurement, through centralized contracts held by OGS. Information about centralized contract offerings can be obtained from the list of approved state contractors maintained by the New York State Office of General Services, which can be found on the following web site: <http://www.ogs.state.ny.us>

a. **Commodity Contracts**

The OGS Procurement Services Group (PSG) establishes centralized contracts for commodity contracts in the form, function and utility required by State agencies, for a wide range of items commonly acquired by agencies. If the commodity is available from a centralized contract in form, function and utility consistent with ESDC's need, such item may be purchased from the centralized contract.

ESDC may competitively procure items otherwise available on a centralized contract when the resultant price is less.

b. **Service Contracts**

The use of most centralized service contracts is at the option of ESDC, although a wide and diverse range of services from routine maintenance to complex technology-based acquisitions are available through these contracts for ESDC's use without an independent contracting process.

E. Approval process

1. Contract Execution / Amendments

- a. Contracts in amounts under \$50,000 (\$100,000 for the Industrial Effectiveness Program) shall be approved by the Chief Executive Officer or his designee.
- b. Contracts (i) in amounts of \$50,000 and over and (i) contracts for any amount involving services to be rendered over a period in excess of one year shall be approved by the ESDC (or subsidiary) Directors.
- c. In addition, Contracts for goods to be provided or services to be rendered over a period in excess of one year, regardless of the amount of the contract, shall be subject to annual approval by the ESDC (or subsidiary) Directors and to review by Contracts Administration. Upon request after each one-year period of the Contract, the originating Department Head will provide a status report setting forth the need for the continuance of the Contract.
- d. Contract documents should be fully executed and delivered by both parties prior to the commencement of any work. However, if in the discretion of the appropriate officer of ESDC it is essential that work on a Contract be commenced before the formal Contract documents have been approved, ESDC may issue a letter authorizing a Contractor to commence work pending completion and execution of formal Contract documents ("Letter to Proceed"), provided that:
 - i. the authorization contained in such Letter to Proceed does not exceed \$50,000; and
 - ii. the ESDC officer seeking to issue the Letter to Proceed obtains, via memorandum explaining in reasonable detail the need for the immediate commencement of Contract performance, the written authorization of two of the following:

ESDC Chief Executive Officer or Executive Vice President

ESDC General Counsel

ESDC Chief Financial Officer

With a copy to Contract Administration.

- e. Amendments to existing contracts follow the same process as new contracts, i.e., the amendment needs to be advertised in the New York State Contract Reporter or exempt from advertising by the Chief Executive Officer or Executive Vice President via ESDC General Counsel; justification memo, commitment request form, standard amendment form. If the proposed amendment will involve a new Contract Reporter advertisement or other solicitation, the requirements of State Finance Law Sections 139-j and 139-k and Tax Law Section 5-a will apply to the new solicitation
- f. Contract amendments that increase the Contract amount to \$50,000 or more must be approved by the ESDC Directors. Amendments for less than 10% of the original contract amount, unless the amendment increases the contract to an amount above \$50,000 and Directors approval has not been previously obtained may be executed by the ESDC Chief Executive Officer without further Board approval.

2. Contract Justification Memorandum

The initiator writes a memorandum from the respective Department Head to the Chief Financial Officer (contracts under \$50,000) or ESDC Chairman (contracts of \$50,000 or over) justifying the need for the contract providing:

- a. the need or justification for goods and services;
- b. a brief description of the goods or services needed;
- c. the expected maximum cost of the proposed goods or services;
- d. the selection process used to determine the proposed contractor including:
 - (i) the application of criteria to determine an award based on best value, or
 - (ii) where not quantifiable, the justification which demonstrates the best value will be achieved; and
- e. funding source.

3. Commitment Request Package

- a. Contract initiator completes the required information on the Commitment Request Form, attached to these Guidelines at attachment 10.
- b. Contract initiator completes the Standard Form Contract-Short Form for goods/services (attachment 11), if applicable, or attaches equivalent contract package such as Standard Architect Agreement or Standard retainer Agreement, or Standard Form Amendment or Modification of Contract (attachment 12).

The provisions and the requirements of the Contract must be specific and stated in clear and unambiguous terms so they are fully understood by the contracting parties. It is important the contract clearly specify what is expected of both the contractor and ESDC, and the method of payment to the contractor. The more clear and specific the Contract, the easier it will be to monitor.

The terms of the Contract should include, but not be limited to

- the scope and purpose of the Contract,
- the description of the services to be performed,
- the location where the work is to be performed,
- the standards to be used to measure performance (e.g. units of service, number and nature of clients served, target dates, etc.),
- the level of expertise that is required to perform the tasks,
- the cost and the method payment of the contract,
- the starting date and the contract period,
- the finished product or the services to be delivered, and
- the record keeping and reporting requirements, including a right to audit the contractor's records by the state.

In addition, any contingency amount should not be disclosed.

- c. Justification Memorandum (as described above).
- d. ESDC Board of Directors Approval if applicable.
- e. New York State Contract Reporter Form, approved exemption letter, or NYS OGS Centralized Contract.
- f. All appropriate insurance certificates, as approved by the ESDC Insurance Administrator, a copy of the CEO's approval and a copy of the RFP, if applicable.
- g. Five (5) original sets of contract package or amendment with **Schedule A** (conditions applicable to consultant or legal agreements – attachments 13 and 14), **Schedule B** (scope of work and compensation terms), **Schedule C** (Non- Discrimination and Affirmative Action Provisions – attachment 15), Schedule D (ST-220 Contractor Certification Form pursuant to Tax Law Section 5-a) and Schedules E-1 (Compliance with State Finance Law Sections 139-j and 139-k, the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law (139-j (3) and 139-j (6) (b), the

Offerer Disclosure of Prior Non-Responsibility Determinations (139-k(2), and Government Entity of Record of Contact under State Finance Law 139-k(4) along with any other applicable schedules.

- h. The initiator signs and obtains the Department Head approval on the Commitment Request and forwards the "Commitment Package" to Contract Administration for review/revision (if necessary) and approval. The Commitment Package must be accompanied by a completed Commitment Package Checklist, attached to these Guidelines as attachment 9 (also available on ESD drop down menu under Procurement/Administration).
- i. Contract Administration routes and tracks the Commitment Package and obtains necessary approvals from various ESDC Departments.
- j. Upon obtaining in house approvals on the Commitment Request, Contract Administration mails five (5) sets of the Contract or Amendment package to the vendor for signature(s).
- k. After receiving five (5) signed sets from the vendor, Contract Administration sends all five sets to the Chief Financial Officer or ESDC Chairman for signature.
- l. One original copy of the contract is mailed by Contract Administration to the vendor.

F. Minority/Women Owned Business Participation

The Corporation shall promote and assist participation by minority and women owned businesses in the selection and award of all Procurement Contracts. Such minority and women-owned business participation shall be documented in a regular supplement, prepared by the Affirmative Action department.

G. Responsibilities of Procurement Contractors

Procurement Contractors shall have the following responsibilities:

1. To perform the Contract in accordance with its terms;
2. To deliver the goods or services required under the Contract competently, efficiently, in a timely manner, at a reasonable cost and in a manner which is satisfactory to ESDC; and
3. To cooperate with ESDC personnel who are directing, supervising or monitoring the performance of the Contract or who are assisting in its performance.

H. Monitoring of Procurement Contracts

1. Each Contract awarded must contain a scope of work or services to be provided and identify the product to be delivered, if any, use of corporate

supplies and facilities, use of corporate personnel, and establish starting and completion dates for major components of the Contract.

2. ESDC employees, assigned the responsibility of monitoring the work, should be familiar with the type of work being performed and with the specific terms of the contract.
3. The frequency and manner in which the contractor's performance will be monitored should be clearly stated and directly related to the terms of the contract.
4. Written documentation pertaining to contractor performance, such as progress reports, site visit reports, payment and expenditure data, memoranda of verbal discussions, and written correspondence, should be maintained and reviewed.
5. Periodic visits to the work sites should be made to review work in progress and work completed. Site visit reports should be completed and include the observations of pertinent matters, such as the number and type of persons employed by the contractor, adequacy of the facilities and equipment, and quality of performance, including any deficiencies in the performance of the work, which may have an impact on satisfactory completion of the project.
6. The evaluation of the contractor's performance should take into consideration the quantity and quality of the work performed, the timeliness of submission of contract deliverables, the adequacy of cost and performance records and other supporting documentation, and whether the extent of performance, to date, is commensurate with the amount the contractor has been paid.
7. Performance that is below expectations or established standards should be reported to ESDC management immediately. All deficiency reports should be specific and in writing. Management should review deficiency reports and take appropriate action, which may include termination of a contract.
8. All invoices presented for payment should be reviewed by the person who is monitoring the contract and approved by the respective Department Head. No payment should be made unless the work is satisfactory and in accordance with the terms of the Contract. Approval on the Payment Authorization form attests to this.

I. Procurement Contracts Involving Former Officers of ESDC

ESDC shall enter into Procurement Contracts with its former officers or employees, or with firms employing such officers or employees, only to the extent permitted by ESDC's "Guidelines Regarding Conflicts of Interest and Ethical Standards", ESDC's "Purchasing and Commitment Request System for Purchase

Orders and Contracts", and applicable provisions of law.

J. Implementation of Guidelines

ESDC's Procurement Officer in conjunction with the VP Contract Administration shall be responsible for:

1. Preparing for approval by the CEO such supplemental procedures as may be required effectively to implement the approved Guidelines.
2. Preparing proposed amendments to the Guidelines for approval by the CEO and the ESDC Directors when and as required, and
3. Monitoring departmental compliance with the approved Guidelines.

K. Reporting

1. Quarterly Reports

ESDC's Procurement Officer or VP Contract Administration shall prepare and present to the ESDC Directors quarterly reports of new Procurement Contracts. For each Procurement Contract, the report shall include the Contract amount, reason for award, initial scope of services and the selection process used. Such reports shall include information related to amendments approved on Contracts during the reporting period.

2. Annual Reports

ESDC's Procurement Officer or VP Contract Administration shall annually prepare for approval by the Directors and public availability a report on Procurement Contracts as of the end of each fiscal year summarizing procurement activity by the Corporation for the period of the report, including a listing of all Contracts entered into, the selection process used to select such Contractors and the status of existing Procurement Contracts. ESDC's Procurement Officer or VP Contract Administration shall also prepare, on an annual basis, a report for submission to:

- a. The Division of Budget;
- b. The Department of Audit and Control;
- c. The Senate Finance Committee;
- d. The Assembly Ways and Means Committee; and
- e. Members of the public (upon receipt of reasonable requests therefore)

The reports shall include the Guidelines, amendments thereto, and an explanation thereof.

L. Effect on Awarded Contracts

Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any Contract or agreement made or entered into in violation of, or without compliance with these Guidelines.

M. Attachments:

1. Budget Bulletin B-1184



Budget Bulletin
B-1184

2. ESDC Procurement Opportunity Advertisement Approval



Up to 200,000



Over 200,000

3. Required Language for Solicitations by ESDC and its Subsidiaries



Required.pdf

4. Policy Regarding Permissible Contacts under State Finance Law Section 139-j and 139-k



Document.pdf

a- Model Form for Governmental Entity Report of Contact under State Finance Law 139-k (4)



Model Form for
Governmental Entity

b- Model Form to Obtain Offerer's Affirmation of Understanding



Model Language to
Obtain Offers Affirmation

c- Model Form to Obtain the Offer Disclosure of Prior Non-Responsibility



Model Language to
Obtain the Offerer Di

5. Tax Law Section 5-a: ST- 220 – CA



ST-220-CA.pdf
(122 KB)

6. Contract Reporter Publication Schedule



Contract Reporter
Publication Schedule

7. ESDC Bid Opening Guidelines

8. ESDC Board Material Format



board materials.pdf

9. Commitment Request Package Checklist



Commitment Request
Checklist

10. Commitment Request Form



Commitment Request
Form

11. Standard Form Contract-Short Form for Materials/Services



Standard Form
Contract

12. Standard Form Amendment or Modification of Contract



Standard Form
Amendment

13. Schedule A- Consultants



Schedule A -
Consultants

14. Schedule A – Legal



Schedule A - Legal

15. Schedule C – Consultant AA Provision



Schedule C-
Consultant AA Provisi

16. Discriminatory Jurisdiction



O:\Discriminatory
Jurisdictions.doc