

Ethics and Confidentiality - Procurement

1 Procurement Ethics

- 1.1 As funds of UNDP are entrusted to the organization by the public at large, it is imperative that all transactions committing UNDP are carried to the highest degree of public trust and should be conducted with impeccable standards.¹ UNDP requires that all Business Units observe the highest standard of ethics throughout the procurement process.²
- 1.2 In pursuance of this policy, UNDP defines for the purposes of this provision, the terms as set forth below:
- a) **“Corruption”** means the offering, giving, receiving or soliciting, directly or indirectly of anything of value to influence the action of personnel³ in the procurement process or contract execution;
 - b) **“Fraud”** means the intentional, false representation or concealment of a material fact for the purpose of inducing another to act up on it to his/her detriment;
 - c) **“Collusion”** means a scheme or arrangement between two or more Offerors, with or without knowledge of UNDP, designed to establish prices at artificial, non-competitive levels;
 - d) **“Coercion”** means harming or threatening to harm, directly or indirectly, persons, or their property, influence their participation in the procurement process, or affect the execution of a contract.
- 1.3 The UNDP procurement process must allow Offerors to compete for UNDP business on a fair, equal and transparent basis. Personnel associated with the procurement function, therefore are responsible for protecting the integrity of the procurement process and maintaining fairness in UNDP’s treatment of all Offerors.⁴
- 1.4 The standard of conduct for all UNDP personnel advisors is to safeguard against **Corruption, Fraud, Collusion and Coercion**.
- 1.5 This standard of conduct for all UNDP personnel therefore includes safeguards against **Conflict of Interest** which may compromise the integrity and objectivity of UNDP which include:
- 1.5.1 During the pre-solicitation phase, personnel must not allow Offeror(s) access to information, whether technical, financial or any other nature, on a particular acquisition before such information is available to the business community at large. Further, solicitations may not use unnecessary restrictive specifications, statements of work or terms of reference that may discourage competition.
- 1.5.2 Personnel having a financial interest in Offeror(s) responding to a UNDP solicitation are prohibited from any involvement in the procurement process. Financial interest means anything of monetary value including, but not limited to:
- a) An interest in a business consisting of any stock, stock option, or similar ownership interest in such business, but excluding any interest arising solely by reason of investment in such business by a mutual, pension, or other institutional investment fund over which the person does not exercise control; or
 - b) Receipt of, or the right or expectation to receive, any income in one or more of the following forms: a consulting fee, honoraria, salary, allowance, forbearance, forgiveness, interest in real or personal property, dividend, royalty derived from the licensing of technology or other processes or products, rent, or capital gain.
- 1.5.3 Personnel having personal or professional interests with direct or indirect influence in an Offeror responding to a UNDP solicitation are prohibited from any involvement in the procurement process. Personal or professional interests include, but are not limited to:

¹ To protect the integrity of the procurement process, potential abuses may be referred to the UNDP Online Fraud Reporting System or to OLPS.

² www.undp.org/hotline/

³ Throughout this document, “personnel” includes UNDP Staff, designated Advisors and contracted Consultants.

⁴ UNDP Fin. Rule 121.03(d) (May 2005).

Ethics and Confidentiality - Procurement

- a) Any organization, or enterprise over which the person, alone or together with an immediate family member⁵, exercises a controlling interest; or
 - b) Any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other non-governmental legal entity organized for profit, non-profit, or charitable purposes; or
 - c) Any executive position or membership on the Offeror's board regardless of compensation; or
 - d) Any position that includes responsibilities for a significant segment of the Offeror's operation or management of a business.
- 1.5.4 Personnel may not disclose proprietary and source selection information, directly or indirectly, to any individual other than such authorized to receive information, at any time prior to or after the selection and contracting process.
- 1.6 Any personnel maintaining a conflict of interest or potential conflict should immediately notify the RR/Country Director (CD) or Head of the Business Unit.⁶
- 1.7 UNDP may exclude suppliers, contractors and consultants from tendering for procurement opportunities in UNDP-supported programmes or projects if the Offeror in question or their affiliates provided consulting services for the preparation and implementation of a project, and in order to prevent a conflicts of interest, the Offeror and their affiliates are disqualified from subsequently providing goods and civil works under UNDP financing for the same project.
- 1.8 To safeguard UNDP against illicit use of publicly entrusted funds in terrorist financing, Business Units should assess all entities with which business is conducted, to ensure that funds are used for their intended purposes. To sustain financial control of such public funds and compliance with the UN's regulations and guidelines regarding anti-terrorist financing practices, organizational due diligence requires Business Units to undertake:
- a) Review of the entity's profile;⁷
 - b) Confirm business registration with government authorities; and
 - c) Verify entity against the United Nations Security Council 1267 Committee's list of terrorists and terrorist financier.⁸
- 1.9 All personnel are responsible for the regularity of actions taken by them in the course of their official duties. Any person that takes action contrary to the UNDP Financial Rules and Regulations or these Guidelines may be held personally responsible and financially liable for the consequences of such action.⁹

2 Declaration of Confidentiality and Impartiality

- 2.1 The undersigned, being involved from time to time in the procurement processes of UNDP Cambodia, hereby declare that:
- 2.1.1 I have read, understood, and agree to abide by above-written Procurement Ethics definitions, descriptions and guidelines;
 - 2.1.2 I have no knowledge of any direct or indirect conflict of interest on my part with regard to any of the candidates under consideration in any of the procurement processes with which I am directly or indirectly involved, including individuals, bidders (whether alone or members of a consortium), and proposed subcontractors;
 - a) If during the course of a procurement process I discover that such a conflict of interest exists, or if I realize that a conflict of interest could be reasonably perceived, I will immediately inform UNDP and cease further direct or indirect involvement of any kind in such process;

⁵ i.e., employee's spouse or domestic partner, and dependent children.

⁶ The term "Head of Business Unit" refers to the Resident Representative, Bureau Director, Director of HQ Unit and Director of Out-Posted HQ Unit.

⁷ i.e., background financial reports, annual statements, etc.

⁸ www.un.org/Docs/sc/committees/1267/1267ListEng.htm

⁹ UNDP Fin. Rule 102.02 (May 2005).

Ethics and Confidentiality - Procurement

- b) I understand that if I am aware of such an actual or reasonably perceivable conflict of interest and do not declare it, UNDP has the right, at its sole discretion, to take appropriate disciplinary action against me and/or cancel the related process and/or the results of the related process;
- 2.1.3 I will maintain the highest standard of professional confidentiality and non-disclosure during and after all procurement processes including, but not limited to;
 - a) I will not make public or reveal to any person or entity any confidential information revealed to or discovered by me;
 - b) I will not make public or reveal to any person or entity any information concerning the proceedings, deliberations, recommendations and results;
 - c) I will not take advantage of any information provided to me or that I have had access to in order to prejudice any person or entity;

3 Other Provisions

- 3.1 I further declare that any failure on my part to comply with one or more of these promises of Procurement Ethics and Confidentiality will render me subject to punitive action by and at the sole discretion of UNDP including, but not limited to, suspension or cancellation of my own contract or any other contract or procurement process affected by my failure to comply, and the exclusion of myself or others involved in the breach from all future contracts with UNDP.
- 3.2 Nothing in or related to this document shall be deemed a waiver of any of the privileges and immunities of the United Nations, including its subsidiary organs.

Name: _____

Signature:

Date: _____