

## **Compliance & NYCIDA Projects**

The Compliance Department at the New York City Industrial Development Agency (NYCIDA) works collaboratively with stakeholders to help ensure successful Projects. It does so by educating Project representatives, monitoring Project milestones, and collecting Project information for public reports required under State and Local laws.

### **Education**

Each NYCIDA Project is assigned a Compliance Project Manager. If you are unsure who your Compliance Project Manager is, please call the Compliance Hotline at (212) 312-3963 or email [ComplianceReporting@nycedc.com](mailto:ComplianceReporting@nycedc.com).

We are here to help! Please contact your Compliance Project Manager if you have any questions about your Project. The Compliance Project Manager will meet with your Project's representative to discuss and review the requirements contained in the Agreement. By proactively educating Project representatives about these requirements, issues that could impair a Project's success are frequently avoided. In addition, the Compliance Project Manager serves as the Project's point-of-contact for all Project-related questions for the life of the Agreement. By developing long-term relationships with Projects, the Compliance Project Managers help Projects navigate the requirements of their Agreements.

### **Monitoring**

While each Project has unique characteristics, there are several areas that Compliance is required to monitor across the board:

- ***Employment & Benefit Reporting*** – On an annual basis, Compliance sends Projects a mandatory Employment and Benefit Report. This report collects information about employment at the Project location and benefits received by the Project. This report is due **every August 1**.
  - **See Section 8.16(b) of the Agency Lease Agreement**
- ***Construction Milestones*** – Compliance is responsible for verifying that construction requirements contained in Project Agreements are met. In the event that the Company is delayed on their requirements, Compliance will work with the Project Contact to adjust any deadlines contained within the Agreement. Your Project's Completion Deadline, if applicable, will be specifically assigned in the Agreement. A Project Completion Certificate (with all required attachments) must be submitted by this date or your Project's Completion Date must be extended.
  - **See Section 3.3, 8.14(g); and Exhibit G of the Agency Lease Agreement**
- ***Insurance*** – Compliance works with Projects to make sure that the required level of insurance is maintained. At your Project's closing, an insurance certificate evidencing the required levels of insurance is submitted to NYCIDA. We require that you maintain this level of insurance throughout the life of your Agreement and will request updated insurance certificates upon your policy expirations. Note that any construction performed at the Facility triggers additional insurance requirements. Please contact us when you anticipate that any construction work will be performed.
  - **See Section 8.1 of the Agency Lease Agreement**

- **Tenants [if applicable]** – Agreements contain restrictions on leasing to third parties. Compliance monitors these restrictions and manages the tenant approval process. NYCIDA approval is required before any portion of the Facility can be subleased to entities that are not explicitly listed as preapproved subtenants in the Agency Lease Agreement. In addition, all Projects are required to submit an annual Subtenant Occupancy Survey, **due February 1:**
  - **See Section 8.9 of the Agency Lease Agreement**
- **PILOT [if applicable]** – Compliance monitors the PILOT payments owed by Projects and any changes to a Project's scope including additional improvements that may affect its PILOT obligations. PILOT payments are made semi-annually and are due seven business days prior to **July 1 and January 1** of each year. The New York City Department of Finance is responsible for determining the amount of your PILOT payments.
  - **See Sections 5.1 of the Agency Lease Agreement.**
- **Sales Tax Exemption [if applicable]** – The purchase of Exempt Property in conjunction with the Project is not subject to sales tax. The maximum amount of sales tax savings for the Project is **\$(Amount)** and can also be found on the ST-60 and in the Agreement. Misuse of the IDA Sales Tax Exemption may also result in a repayment with interest of Sales Tax Savings and/or a suspension of the IDA Sales Tax Exemption. Please contact us prior to making purchases of Exempt Property for instructions on how to make use of your Sales Tax Exemption.
  - **ST-123** – As Agent of the Agency, your Company agrees that it will [and will cause each of its Agents or Contractors] to present to each seller, vendor a completed and signed Form ST-123 for each contract, agreement, invoice, bill or purchase order entered into by your Company or by any Agent or Contractor, as agent for the Agency, for the renovation, repair and equipping of the Project; **See Section 5.2(e) of the Agency Lease Agreement**
  - **ST-340** – Annual report of sales and use tax exemptions (original sent to New York State Department of Taxation and Finance, copy sent to Agency) due **February 28<sup>th</sup> of each year** the exemption is valid; **See Section 5.2(f) of the Agency Lease Agreement**
  - **Sales Tax Registry** – In conjunction with the ST-340, a detailed register of Exempt Property must be provided to NYCIDA no later than **August 1<sup>st</sup> of each year**, itemizing individual purchases, amount of waived sales taxes and locations of purchases that received the Sales Tax Exemption realized by your Company and each Agent during the period ending on the **preceding June 30**; **See Section 5.2(g) of the Agency Lease Agreement**
  - **ST-60** – This is a form filed with the State, signifying to the State that an IDA Agent was appointed in connection with the use of the ST-123; **See Section 5.2(d) of the Agency Lease Agreement**
  - **Closing Documents:** Your Company must submit Form ST-60 to the Agency, and the Agency files it with the State Department of Taxation and Finance. Note that Agents will not have a valid exemption until returned executed documents, including STAAL and a Disclosure Form appointing the Agents are received by the Agency;

- **Post-Closing Documents:**
  - Your Company must provide an additional ST-60 for all appointed Agents and Contractors with their names listed on the form.
  - **Form of Required Disclosure Statement** - ensures that the proposed Agent or Contractor is not a “Prohibited Person” ineligible to make purchases on behalf of the Project pursuant to the Agreement. **See Exhibit F**
  - **Form of Sales Tax Agent Authorization Letter (STAAL)** - issued either at Project Closing or later dependent upon when the Project assigns an IDA Project Appointed Agent or Contractor to make purchases. **See Exhibit H**
- **Permitted Encumbrance** – Listed in the definitions of the Agency Lease Agreement are examples of encumbrances permitted under the Agreement. Encumbrances beyond those permitted in the Agreement, such as an additional mortgage, requires advanced written notice for the Agency’s review and approval.
  - **See Definition of Permitted Encumbrances and Section 8.13 of the Agency Lease Agreement**
- **Field Visits** – Field Visits are performed to monitor Project milestones, verify reported information, and meet with Project representatives face-to-face to discuss any questions that may be surrounding the Project.
- **Recapture** – The benefits your Project receives are subject to repayment on the occurrence of certain defined Recapture Events. Recapture Events include but are not limited to: failing to complete the required construction by the Completion Date, subleasing to third parties without NYCIDA consent, ceasing operations, selling the Facility, and making ineligible purchases or purchases that result in savings in excess of your maximum sales tax benefits as specified in the Lease Agreement or on the ST-60.
  - **See Section 5.4 of the Agency Lease Agreement.**
- **Administrative Fees** – An Annual Administrative Fee is due every **July 1**. This fee may be adjusted periodically by NYCIDA’s Board of Directors.
  - **See Section 8.3 of the Agency Lease Agreement.**
- **Late Delivery Fees** – Failure to submit certain requested or required documents within 5 days of the due date will result in:
  - **Per Diem Late Fee:** the imposition of a \$10/day late fee will accrue within 10 days of the missed due date;
  - **Per Diem Supplemental Late Fee:** the imposition of a \$10/day late fee will accrue starting the 11<sup>th</sup> day of the missed due date in addition to the per diem late fee;

***We make every effort to avoid the imposition of Late Delivery Fees by proactively reminding Projects of upcoming deadlines. Please do not ignore emails or mailings from the Compliance team.***

  - **See Section 9.8 of the Agency Lease Agreement.**

- **FRESH Certificate** *[if applicable]* – In order to confirm that Projects continue to meet the requirements of the FRESH Program, Projects must submit to Compliance a certificate that certifies the Facility as a FRESH Food Store every August 1.
  - **See Section 8.16(i) & Exhibit J of the Agency Lease Agreement.**
- **HireNYC** *[if applicable]* – Your Company must collaborate with NYCEDC and the New York City Department of Small Business Services or such other a New York City agency as may be designated by NYCEDC to achieve the hiring and workforce development goals of the HireNYC Program and shall perform the requirements of the HireNYC Program, all as set forth in the Agreement.
  - **See Section 8.23 and Exhibit K of the Agency Lease Agreement**

### **Public Reports**

Compliance is also responsible for reporting publicly certain information about Projects, as required by State and Local law. This information typically is centered on the employment at a Project location and the benefits received by a Project. Because this information is publicly reported, it is critical that Projects work with Compliance to provide accurate data in a timely fashion.