



# Empire State Development

## **ADDENDUM I - Revised section VI i. E on page 24 "Estimated Cost"**

### **NYS Worldwide Consultancy RFP Request for Proposals**

**Issued: June 7, 2024**

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until approval of the Contract. Bidders are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below (refer to: Section IX – ii).

Designated Contacts for this Procurement:

Primary Contact:                   Ralph Volcy  
Secondary Contact:               John Discolo

All contacts/inquiries shall be made by email to the following address:  
[NYGlobal2024@esd.ny.gov](mailto:NYGlobal2024@esd.ny.gov)

Proposals must be uploaded to the designated Dropbox:  
<https://www.dropbox.com/request/5xq1K1neWa4A5SJ4u3bS>

This RFP is posted on the Empire State Development website:  
<https://esd.ny.gov/doing-business-ny/requests-proposals>

**Submission Deadline: On or before 2:00 PM on July 8, 2024**  
Late Proposals will not be accepted.

### **Contents**

I. INTRODUCTION..... 4  
II. OVERVIEW..... 4

III.	SCOPE OF WORK.....	5
IV.	SCHEDULE OF DATES .....	21
V.	SELECTION CRITERIA .....	21
VI.	SUBMISSION OF PROPOSALS .....	21
VII.	QUESTIONS .....	25
VIII.	GENERAL PROVISIONS .....	25
IX.	CONTRACTUAL REQUIREMENTS.....	27
	i. Conflicts of Interest .....	27
	ii. State Finance Law Sections 139-j and 139-k forms .....	28
	iii. Vendor Responsibility Questionnaire.....	29
	iv. Iran Divestment Act.....	30
	v. Executive Order 16 .....	30
	vi. Executive Order 177 .....	30
	vii. Non-Discrimination and Contractor & Supplier Diversity Requirements .....	31
	viii. Encouraging the Use of NYS Businesses in Contract Performance Form.....	33
	ix. Certification under State Tax Law Section 5-a.....	33
	x. Schedule A.....	33
	xi. Project Sunlight .....	34
	xii. Insurance Requirements.....	34
	xiii. W-9 Form.....	34

## **APPENDICES**

**Appendix A - Fee Proposal**

**Appendix B - Request for Proposals Checklist**

**Appendix C - ESD IT Security Standard Brief**

**Appendix D - NYS Worldwide Consultancy RFP Intake Form**

## **I. INTRODUCTION**

The mission of Empire State Development (“ESD”) is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing and other forms of assistance.

## **II. OVERVIEW**

Empire State Development (hereafter referred to as "ESD") has issued this Request for Proposals ("RFP") seeking a qualified firm (the "Contractor") to perform economic development services for Foreign Direct Investment (“FDI”) projects into New York State (“NYS”) and to boost exports for NYS companies’ goods and services globally.

The main objective of this RFP is to identify and engage one (1) independent contractor who will develop and implement visionary, creative, realistic, and aggressive plans to boost exports for NYS companies' goods and services across the globe for Trade and generate FDI projects. The Contractor, through their own work and/or the use of qualified subcontractors must provide full service coverage for Trade in the following locations, having a physical office is preferred, but one office can cover multiple countries or regions if needed:

Africa, Australia, Canada, the Caribbean, China, Europe, India, Israel, Japan, Mexico, the Middle East, Singapore, South America, South Korea, and Taiwan.

For FDI, the Contractor is required to generate investment leads into NYS from the following regions at a minimum:

Australia, Canada, China, Europe, India, Israel, Japan, the Middle East, Singapore, South Korea and Taiwan (“Designated FDI Areas”).

The Contractor must also be able to perform Trade work in markets and regions where they do not have a physical presence. For example, if a company is interested in an EMAS in Cambodia, the Contractor must have a way to complete that project.

Interested firms must, through their own work and/or the use of qualified subcontractors, provide the expected deliverables for trade development and international investment attraction objectives detailed in Section III.

If your proposal utilizes a subcontractor or subcontractors, you must have negotiated preliminary terms with the subcontractor(s) prior to submitting your response to this RFP (it is not necessary to have entered into a contract with the subcontractor(s) at that point). The cost of the subcontractor(s) must be included in your budget and you must identify said subcontractor(s) in the RFP.

The vendors currently providing Trade and FDI services to ESD are set forth below. This RFP is being issued because ESD’s current engagements with these firms are expiring, and not because of any performance issues with these firms. ESD has been satisfied with the work of these firms, but is now seeking a single firm to provide global coverage (either with in-house staff or in combination with partners/subcontractors) to more efficiently manage these tasks.

Africa (Trade): Richard Zurba  
Canada (Trade & FDI): Research On Investment  
The Caribbean: Richard Zurba  
China (Trade & FDI): Tractus  
Europe (Trade & FDI): OCO Global  
Mexico (Trade): Efren Flores  
India (Trade & FDI): Tractus  
Israel (Trade & FDI): Gerry Shalev Stoch  
Taiwan (Trade & FDI): Tractus

ESD is interested in firms that can provide a year-round service to both NYS and its companies. The contractor must work on a full service basis for NYS rather than a quota based system. The Contractor will be expected to perform trade, FDI, joint trade and FDI, Commissioner, and Governor missions and other services as part of their standard contract and not charge an additional fee except under certain circumstances where, with ESD's consent, additional staff might need to be engaged.

Specifically, the selected Contractor will be expected to:

- a) Promote increased exports by NYS companies globally
  - b) Promote increased investment in NYS by companies from the Designated FDI Areas at a minimum but are encouraged to promote FDI from other regions.
- and
- c) Conduct tradeshow, trade mission or other international business development promotion and marketing related tasks designed by ESD.

ESD acknowledges that it is important and in the interest of the Contractor that it maintains independence and remains free to perform business development services for other parties, provided that such parties are disclosed to ESD and are not competitive with NYS business development interests. Therefore, in order for ESD to secure the Contractor's services, it is critical that an independent contractor relationship be established versus an employer-employee relationship.

Note: Contractors performing services for ESD must avoid anything that causes, or can be seen as causing, a conflict of interest. Contractors must be able to give 100% commitment to serving the best interests of ESD. If the contractor is representing a client with similar interests to New York then a conflict of interest is likely to arise. It would not be acceptable if a Contractor were to potentially represent competitors to NYS at the expense of NYS international business development objectives. In the event a respondent to this RFP has a pre-existing relationship with a client that has, or is likely to develop, a competing interest to that of NYS, the respondent must disclose this information as part of its submission. Failure to do so may result in the rejection of the respondent's submission.

### **III. SCOPE OF WORK**

#### **A. TRADE**

The Contractor shall perform Trade Development Activities for New York State. For the purpose of this project, Business Development Activities shall mean the promotion of increased exports of goods and services for NYS companies to all countries and regions of the world.

The Contractor shall render the Services in accordance with the highest professional and ethical standards. ESD shall identify International Trade Managers (ITMs) prior to commencement of the Contract. The Services performed by the Contractor under the Contract shall include the following:

### **Trade Development**

The Contractor shall provide business development services globally to create export sales opportunities for NYS companies that produce, manufacture, and develop technologies, and offer goods and/or services for sale. The contractor shall help qualified NYS companies, industry associations and regional entities representing best prospects for export expansion, as specified below.

Information that ESD believes will further enhance the ability of the contractor will be provided to the Contractor, but the Contractor should propose how they can best meet the deliverables from their previous experience or proposed activities.

The Contractor should focus on the regional markets and sectors that offer the most promising opportunities for meeting NYS export expansion and focus on leading NYS industry sectors for trade efforts, as outlined below, and as further specified by ESD as future market opportunities and business conditions evolve. The Contractor would also be expected to provide trade assistance in other sectors, based on ESD's requests and the potential for new business opportunities in the designated area identified by the Contractor. Some leading NYS manufacturing sectors for trade development efforts include:

- Aircraft, spacecraft, defense, and related parts
- Beverages and spirits (beer, wine, ciders, distilled spirits, etc.)
- Cosmetics, fragrances, and related products
- Food products
- Electric machinery
- Industrial machinery – including computers.
- Advanced Manufacturing including robotics.
- Jewelry with precious gems and metals
- Miscellaneous Chemical products
- Optical/photographic/surgical/medical instruments
- Plastics and plastic articles
- Medical Devices / Pharmaceuticals
- Vehicles and related parts

Significant export service sectors include business consulting, engineering, marketing, finance, higher education, and tourism. The Contractor shall perform their responsibilities for export expansion in accordance with the specifications of ESD's Export Marketing Assistance Services (EMAS)\* and EMAS Plus Service\*\*. ESD maintains a professional staff of trade development experts who will provide the Contractor with export-ready companies interested in the designated markets. The determination of export readiness would be made by ESD's Global NY staff.

\*EMAS is a New York State program designed to help businesses find sales agents or distributors abroad. The Contractor's office will be expected to provide local expertise for the markets selected (market

intelligence), conduct customized research, competitor analysis, provide market entry guidance, and identify potential partners for the company abroad. Non-EMAS equivalent trade projects include attending conferences, meetings, trade events, trade mission programming and administration, report writing, research and travel to NYS to participate with ESD staff on programmed trade activities. \*\*EMAS Plus is a service where a New York State company has obtained a qualified list of sales agents and distributors from a country or region using the EMAS program and wishes to travel to that area to meet with and vet these sales agents and distributors utilizing the State Trade Expansion Program (STEP) for reimbursement for a portion of their travel related costs. The Contractor will assist the NYS company to set up meetings with these sales agents and distributors and provide a detailed agenda.

The Contractor shall also provide support for special projects, related to the scope of services as designated by ESD. ESD will provide the Contractor with specific quantifiable guidelines on what is expected of them. The Contractor will be expected to fulfill those metrics and requirements. The Contractor should remain flexible and willing to accommodate special trade project needs, with the understanding that ESD will provide relevant resources for such projects.

**(a) Reports**

In connection with activities assigned under this contract, the Contractor shall provide monthly and annual reports as required. These reports are expected to supplement data entered into ESD's Microsoft Dynamics Customer Relationship Management (CRM) system. The Contractor shall utilize ESD's CRM system to input and track trade activities and results. In connection with the financial activities, the Contractor shall provide ESD Global NY staff with monthly activities and client reports. Receipts and proof of payments of all expenditures under this contract will be provided to ESD on a quarterly basis. Report Invoicing for expenses will be provided to ESD on a quarterly basis. The reporting shall identify the expenses incurred for each month by the categories identified in Foreign Office Budget. The Contractor shall provide two quarterly financial reports: one invoice for personnel expenses and one for non-personnel expenses. The personnel expense invoice shall include the following for each staff member: the employee's name, the dates worked, the number of hours worked per day and a general description of the duties performed for each day worked along with Monthly International Business Activity Reports. The non-personnel invoice shall include receipts and proof of payments of all non-personnel expenses incurred for each month organized by the categories identified in the Foreign Office Budget. The Contractor shall include a description and detail for each non-personnel receipted expense. The reports shall be written in English, prepared in US Dollars using the existing currency exchange rates and delivered not later than the last day of the following month ending the quarter. All receipts and invoices provided to ESD in a language other than English will need to be translated into English to be processed. A copy of all reports including financial reports shall be provided to ESD's Global NY Office and Finance Office.

**(b) Place of Work and Office Management**. The Contractor will provide Services primarily from the Contractor's physical offices, but will, as needed, come to other places designated by ESD to meet with representatives of ESD. The Contractor will:

- Be responsible for the physical arrangement, management and compliance with all offices host nation laws and regulations for the Representative Office(s), including the hiring of the Contractor's own support staff, licensing or registration of offices and operations, and maintenance and repair of the Representative Office(s);

- Develop and submit updates to the annual Financial Proposal as requested by the ESD;
- Be able to provide material related to the functions above, including material provided by ESD to interested parties.
- Be responsible for all activities involving the Representative Office(s);
- Be liable and responsible for paying all applicable taxes and fees relating to employment of staff and operation of the Representative Office(s); and
- Ensure that the Representative Office(s) meet the Technical Requirements described in this agreement.

**(c) Business Records.** The Contractor shall prepare and maintain all financial and other business records. The financial records shall be prepared and maintained in accordance with generally accepted accounting principles in the United States. If requested and with ten (10) business days written notice, ESD shall have access and the right to examine, audit, excerpt, photocopy, and transcribe any and all financial and other business records prepared and maintained by the Contractor.

**(d) Time Devoted to Services and Operations of Representative Offices.** ESD will rely on the Contractor to determine the manner of and time required for performance of the Services, however, priority will be given to those that submit a proposal that has the office act as a full service arm of New York and will work at minimum 3 full days a week. As a guideline, performance of the Services will require that the Representative Office(s) be operational and staffed in accordance with customary business practices in the country of its offices in order to interface with ESD and clientele being represented; however, the Contractor need not perform these services in person.

**(e) Knowledge Regarding New York.** The Contractor shall maintain in-depth knowledge concerning the State's economic structure, business interests, practices, tourism markets, educational assets relevant to international business development (e.g. colleges/universities, R&D facilities, etc.) and culture and shall be fully conversant with the State's economic development programs and services. The Contractor should allocate funds in their budget for an annual trip to New York to learn of relevant new developments and participate in meetings and conferences to inform NYS businesses of resources and services available to assist them with export development.

The Scope of Services describes primary specifications for the Contractor and clearly identifies the expected tasks and deliverables for the Contractor, including numerical targets wherever feasible. The responsibilities and tasks guidelines are meant to illustrate respective roles of NYS-based staff, of the international representatives, and of NYS companies. The Contractor's budget should reflect the travel costs needed for accomplishing the specified trade deliverables, within the available annual budget. The trade management team will coordinate with the Contractor on follow-up, site visits, etc. The Contractor should specify relevant trade events and prioritize them, with a frank assessment of the pros and cons of NYS participation.

The Contractor should recommend the number of trade activities/events relevant to the annual budget and the anticipated deliverables. ESD will pay for advertising, trade show exhibit booths, etc. out of separate funds. Depending on the event and whether it is deemed worth the investment of time and resources, a determination will be made regarding the level of service needed on behalf of NYS. Any additional travel to support NYS companies, outside of the scope of participating in approved trade events including trade missions, would require prior approval.



Providing services such as matchmaking services, market intelligence and trade events, and lead generation; and fueled by input from ESD and NYS companies themselves, the Contractor can best assist this State's export activities in the following ways:

## **I. SERVICES PROVIDED**

The services provided by international representative offices, as contracted, can be grouped under five broad categories:

- Trade Assistance Work Order Services
- Country-Specific Intelligence
- Trade Events and Trade Missions
- Reporting
- Foreign Language Translation to English
- Other Duties

These targets are objectives for anticipated deliverables and will also depend on ESD Global NY staff resources. The Contractor will be expected to document progress in monthly reports and calls.

### **A. TRADE WORK ORDER SERVICES:**

The annual minimum targets for the Representative Office(s) shall include:

- **Africa:** services for 30 Export Assistance Requests
- **Australia:** services for 30 Export Assistance Requests
- **Canada:** services for 50 Export Assistance Requests
- **The Caribbean:** services for 30 Export Assistance Requests
- **China:** services for 50 Export Assistance Requests
- **Europe:** services for 80 Export Assistance Requests
- **India:** services for 30 Export Assistance Requests
- **Israel:** services for 25 Export Assistance Requests
- **Japan:** services for 30 Export Assistance Requests
- **Mexico:** services for 30 Export Assistance Requests
- **The Middle East:** services for 30 Export Assistance Requests
- **Singapore:** services for 30 Export Assistance Requests
- **South America:** services for 20 Export Assistance Requests
- **South Korea:** services for 30 Export Assistance Requests
- **Taiwan:** services for 30 Export Assistance Requests

In addition to the above markets, there may be cases where companies are interested in a country or region that there is not a physical office. The contractor must have a mechanism in place to fulfill those requests.

An Export Assistance Request includes EMAS, EMAS Plus requests and non-EMAS equivalent trade projects which can include but not limited to attending conferences and meetings, trade event programming and administration, trade mission planning, coordination and execution, report writing, research, travel to NYS to participate with ESD staff on programmed trade activities.

The Contractor shall:

1. Identify best distribution channels for New York State industries in the Designated Trade Area and maintain records of qualified agents, brokers, wholesalers, dealers, distributors, retailers, and export management companies;
2. Identify, per client request, best distribution channels, for client product(s);
3. Facilitate client/distributor, agent, and representative relationships including language assistance, foreign business protocols, and assistance with methods of payment or regulations, duties etc.; and
4. Assist NYS exporters traveling to the countries and regions in implementing (2) and (3) under this section. The Contractor must sustain and expand New York's current markets in the designated area while identifying and prioritizing the best prospects in untapped regional markets and industry sectors.
5. Assist NYS with the planning, coordinating, and execution of trade missions
6. Foreign Language Translation to English

#### **B. COUNTRY-SPECIFIC INTELLIGENCE:**

For each of the 15 countries and regions mentioned in the overview, the Contractor shall provide the following information within their monthly, annual and company reports:

1. Foreign Market Intelligence (product, country or region-specific) including suggestions and guidance for: Product Market Viability (country or region-specific), Market Penetration Strategy, Market Development Strategy, Product Adaptation, Modification, and Compliance.
2. Statistics and Records (country and region specific) on:
  - Best industries
  - Best products
  - Trade shows
  - Trade leads -Initial and prequalify leads based on company feedback
  - Desired representation for NYS companies
  - Associations, agencies, and individuals of potential service to NY companies
3. Other Sources of Information and Referrals (country or region specific) for information on:
  - Entry regulations/controls/tariffs/duties/etc.
  - Political, social, cultural peculiarities affecting market

#### **C. TRADE EVENTS PROGRAM ADMINISTRATION**

The Contractor shall assist ESD in administering a trade events program in any country or region which will be used as a tool for developing NYS trade representative prospects in any country or region. Actual events are to be established at the beginning of the contract period and may change subject to the agreement of ESD and Contractor. For the contract year the Contractor shall:

1. Provide on-site planning, budgeting, and implementing of State Trade and Export Promotion (STEP) trade shows, and trade missions (specific to the country or region) with overall project management by ESD; Note: The work towards planning,

coordinating, and execution of trade missions is part of the yearly operating budget of the office and hours spent towards that mission shall not be billed separately.

2. Attend trade shows and participate in trade missions, providing service to NYS firms or NYS economic developers;
3. Assist trade consultant with post-show/mission follow up including post-show and post-mission assessment and follow-up with participants;
4. Maintain database of superior industry-specific trade events (see Section B, item 2.c, above); and
5. Assist with on-site coordination, planning, and implementing of trade missions.
6. Language translation service to English for NYS companies and ESD.

**D. REPORTING ON TRADE DEVELOPMENT**

Monthly Reports on Business and Industry Activity shall be completed in the following format. Monthly Reports shall be submitted no later than five days after the end of each month for the previous month’s work. ESD reserves the right to modify this report or to substitute submission of report with entry of relevant information in its CRM system and will report to the assigned ESD ITM.

The Contractor should be expected to provide a monthly summary report and a much more comprehensive end of the year final report detailing successes.

Monthly International Business Activity Report	
Office:	For Month Of:
Date Report Completed: / /	
Services Provided	
(A) Research: List 5 top industry segments	
(B) Business Development Trade: <ol style="list-style-type: none"> <li>1. List the new and current companies being serviced for trade development.</li> <li>2. List trade events, conferences, special events in which you participated. Please include purpose/description, dates, location, and number of attendees.</li> <li>3. List business travel, purpose, locations, dates</li> <li>4. List office visitors. Please include dates.</li> <li>5. Other activities. Please include description, dates, location, and number of attendees.</li> </ol>	
(C) Communications: List all confirmed project leads transferred to the ESD	

The Contractor will also prepare an Annual Report in the following format which will be submitted to the ESD within one week of the end of the contract year:

Annual Report	
Office:	For Contract Year starting                      and ending
Date Report Completed: / /	
The Report should be in a narrative format including, but not necessarily limited to, the following:	

•	Services provided, including successes and achievements in trade.
•	Research:  Summary of 5 top industry segments, including current market conditions
•	Business Development for Trade:  Summary of marketing events and activities conducted.
•	Communications:  Summary of confirmed/active project leads identified and transmitted to the ESD, including current status of those projects.

**E. OTHER DUTIES**

**1. ADMINISTRATIVE DETAILS**

The Contractor shall ensure that complete client data information will be entered, updated and maintained in the ESD assigned CRM (client relationship management) system. This will include all required information, status and results of work orders or other requests, and applicable information to provide quality service to the clients. The Contractor shall also ensure that monthly and annual reports required are submitted by the established deadlines.

**2. TECHNOLOGY REQUIREMENTS**

(a) Software: The Contractor shall secure and maintain licensed Microsoft office software (Word, Excel, and PowerPoint), that meets the following specifications:

- Must be able to support CRM (client relationship management) system
- Must be able to protect system from viruses and from infiltrating network worldwide.

(b) Communication: The Contractor shall secure and maintain communication services that meet the following specifications:

- Must be able to send and receive landline voice calls.
- Must have facsimile capabilities.
- Must have voice messaging capabilities.
- Must have cellular phone capabilities.
- Must respond to voice messages and emails within 24 hours or the next business day (principal or his/her designee).
- Must be proficient with Zoom or other video meeting tools as designated by ESD.

(c) Internet Access: The Contractor shall secure and maintain high speed internet services that allow for communications email messaging and CRM connectivity that support ESD objectives.

## **B. FOREIGN DIRECT INVESTMENT**

The Contractor shall perform Business Development Activities for International Investment Attraction {Inward Investment or Foreign Direct Investment (FDI)} to New York State (NYS). For the purpose of this project, Business Development Activities shall mean the promotion of new investment into NYS by companies from the Designated FDI Area.

The Contractor shall render the Services in accordance with the highest professional and ethical standards. The Services performed by the Contractor under the Contract shall include the following:

### **1. Investment Attraction**

The Contractor shall actively market, identify, qualify, and provide leads/identified projects for the attraction of international investment to NYS. As part of this contract the Contractor will design, plan, and execute activities to identify potential firms that are likely to make a direct investment in New York State. The Contractor shall be responsible for identifying firms, qualifying investment leads, and projects for inward investment attraction. In addition, the Contractor will provide operational support for ESD in industry-related investment attraction activities and promotions. Such international investment attraction work shall focus on NYS's key industry clusters with the objective of creating quality jobs in NYS. These industry clusters include but are not limited to:

- Advanced Materials and Manufacturing
- Agribusiness
- Biotech and Life Sciences
- Cleantech and Renewable Energy
- Craft Beverage
- Distribution
- Financial Services and Insurance
- Homeland and Cyber Security
- Industrial Machinery and Systems
- Materials Processing
- Optics and Imaging
- Microelectronics
- Software, Gaming and Digital Media
- Tech and Electronics
- Television and Film
- Transportation Equipment

Information that ESD believes will further enhance the ability of the contractor to encourage FDI will be provided to the Contractor, but the Contractor should propose how they can best meet the deliverables from their previous experience or proposed activities.

The Contractor should focus on the regional markets and sectors that offer the most promising opportunities for meeting NYS FDI objectives and focus on leading NYS industry sectors for FDI attraction efforts, as outlined below, and as further specified by ESD as future market opportunities and business conditions evolve. The Contractor would also be expected to provide FDI assistance in other sectors, based on ESD's requests and the potential for new business opportunities in the Designated FDI Area identified by the Contractor. The Contractor shall perform their responsibilities for investment attraction in accordance with established FDI criteria and guidelines.

The Contractor will establish and maintain relationships on behalf of ESD with large company headquarters within the international region/country, as well as with major multipliers.

It is possible that the Contractor could be requested to provide logistical support for a high-level trip by NYS government officials to their respective region/country. Experience in coordinating such trips will be taken into consideration when ESD is evaluating potential contractors.

The Contractor shall also provide support for special projects, related to the scope of services as designated by ESD. ESD will provide the Contractor with specific quantifiable guidelines on what is expected of them. The Contractor will be expected to fulfill those metrics and requirements. The Contractor should remain flexible and willing to accommodate special FDI project needs, with the understanding that ESD will provide relevant resources for such projects.

**(a) Reports:** In connection with activities assigned under this contract, the Contractor shall provide monthly and annual reports as required. These reports are expected to supplement data entered into ESD's Microsoft Dynamics Customer Relationship Management (CRM) system. If instructed, the Contractor shall utilize ESD's CRM system to input and track investment activities and results. In connection with the financial activities, the Contractor shall provide ESD with monthly activities and client reports. Receipts and proof of payments of all expenditures under this contract will be provided to ESD on a quarterly basis. The reporting shall identify the expenses incurred for the month by the categories identified in Foreign Office Budget. The Contractor shall include a quarterly financial report providing a description and detail of any expense line(s). The reports shall be written in English, prepared in US Dollars using the-existing currency exchange rates and delivered not later than the last day of the following month ending the quarter. Receipts and invoices provided to ESD in other than English will need to be translated into English to be processed. A copy of all reports including financial reports shall be provided to ESD's Global NY Office and Finance Office.

**(b) Place of Work and Office Management:** The Contractor will provide Services primarily from the Contractor's principal office located in the Designated FDI Area, but will, as needed, come to other places designated by ESD to meet with representatives of ESD. The Contractor will:

- Be responsible for the physical arrangement, management and compliance with all Designated Area host nation laws and regulations for the Representative Office(s), including the hiring of the Contractor's own support staff, licensing or registration of offices and operations, and maintenance and repair of the Representative Office(s);
- Develop and submit updates to the annual Financial Proposal as requested by ESD;
- Be able to provide material related to the functions above, including material provided by ESD to interested parties.
- Be responsible for all activities involving the Representative Office(s);
- Be liable and responsible for paying all applicable taxes and fees relating to employment of staff and operation of the Representative Office(s); and
- Ensure that the Representative Office(s) meet the Technical Requirements described in this agreement.

**(c) Business Records:** The Contractor shall prepare and maintain all financial and other business records. The financial records shall be prepared and maintained in accordance with generally accepted accounting principles in the United States. If requested and with ten (10) business days written notice, ESD shall have access and the right to examine, audit, excerpt, photocopy, and transcribe any and all financial and other business records prepared and maintained by the Contractor.

**(d) Time Devoted to Services and Operations of Representative Offices:** ESD will rely on the Contractor to determine the manner of and time required for performance of the Services. As a guideline, performance of the Services will require that the Representative Office(s) be operational and staffed in accordance with customary business practices in the Designated FDI Area in order to interface with ESD and clientele being represented; however, the Contractor need not perform these services in person.

**(e) Knowledge Regarding New York:** The Contractor shall maintain in-depth knowledge concerning the State's economic structure, business interests, practices, tourism markets, educational assets relevant to international business development (e.g., colleges/universities, R&D facilities, etc.) and culture and shall be fully conversant with the State's economic development programs and services. The Contractor should allocate funds in their budget for an annual trip to New York to learn of relevant new economic developments (related to FDI) and participate in meetings, conferences to inform NYS businesses of resources and services available to assist them with export development.

The Scope of Services describes primary specifications for the Contractor and clearly identifies the expected tasks and deliverables for the Contractor, including numerical targets wherever feasible. The responsibilities and tasks guidelines are meant to illustrate respective roles of NYS-based staff and the international representatives. The Contractor's budget should reflect the travel costs needed for accomplishing the specified FDI deliverables, within the available annual budget. The FDI management team will coordinate with the Contractor on follow-up, site visits, etc. The Contractor should specify relevant FDI events and prioritize them, with a frank assessment of the pros and cons of NYS participation.

The Contractor should recommend the number of foreign direct investment activities/events relevant to the annual budget and the anticipated deliverables. ESD will pay for advertising, trade show exhibit booths, etc. out of separate funds. Depending on the event and whether it is deemed worth the investment of time and resources, a determination will be made regarding the level of service needed on behalf of NYS. Any additional travel, outside of the scope of participating in approved FDI events, would require prior approval.

Providing services such as matchmaking, market intelligence, investment events programming, and lead generation; and fueled by input from ESD, the Contractor can best assist New York State's investment attraction activities.

## **1. SERVICES PROVIDED**

The services provided by international representative offices fall under three broad categories:

- Investment Attraction/Foreign Direct Investment
- Reporting
- Other Duties



These targets are objectives for anticipated deliverables and may depend on ESD staff resources. The Contractor will be expected to document progress in monthly reports and meetings.

#### **A. INVESTMENT ATTRACTION/FOREIGN DIRECT INVESTMENT (FDI) DELIVERABLES:**

ESD and the Contractor will review the activities and related plans designed to identify and attract investment. If needed, the NYS-based FDI management team will provide information on targeted firms headquartered in the Contractor's region that have operations in the USA and will expect the Contractor to conduct outreach to the parents' headquarters in order to identify prospects for attraction and relocation to NYS. The Contractor will provide a list of tools the Contractor intends to use so that it might be compared with ESD tool/database sets to avoid duplication.

The Contractor shall provide a market assessment within three months of establishing the contract. The market assessment should consist of an outline detailing how the goals below will be met.

The Representative Offices are expected to conduct a marketing campaign to generate "qualified leads\*\*," and achieve a market-based goal for fully qualified leads. The definition of a lead includes the condition that a company has a project with a minimum of 50 jobs created for the NYC and Long Island regions and 25 jobs for all ESD regions north of NYC. ESD should also be provided with additional project details such as schedule, site requirements, investment amount and potential jobs created. Each designated area must achieve at minimum the following qualified lead targets on an annual basis:

- **Canada: 20**
- **China: 20**
- **Europe: 30**
- **Israel: 12**
- **India: 20**
- **Australia: 12**
- **Taiwan: 12**
- **Japan: 12**
- **Singapore: 12**
- **South Korea: 12**
- **The Middle East: 12**

*\* The Contractor shall undertake activities that place a priority on the identification of projects to ensure that job creation be targeted for investment in Upstate New York when applicable.*

*\*\*The term "qualified leads" refers to companies in the Contractor's region that are in the process of evaluating plans to establish new or expanded operations in North America. The Contractor will ensure that the companies are already engaged in their project analysis including site selection, project budgeting and financing and are able to articulate the projected employment of the new or expanded operations.*

#### **B. REPORTING ON INVESTMENT ATTRACTION**

Identified leads will be entered into ESD's designated system for reporting. In addition, a lead will be transmitted via email with investment/project details. Monthly Reports on Business and Industry Activity shall be completed in using a template that will be provided by ESD. Monthly Reports shall be submitted no later than five days after the end of each month for the previous month's work. ESD reserves the right

to modify this report or to substitute submission of report with entry of relevant information in its CRM system and will report to the assigned ESD FDI lead and team.

The Contractor should be expected to provide a monthly summary report and a much more comprehensive end of the year final report detailing successes. Once the contract is awarded, Empire State Development will provide a suggested template for the report, which will include such items as: insights on the region's economy, government, relations with the US, and investment trends; updates on the past month's FDI-related activities; updates on the past month's project leads; and upcoming business development activities.

The Contractor will also prepare an Annual Report which will be submitted to ESD within one week of the end of the contract year using a template provided by ESD, which will include such items as: FDI market trends from the region to the US; summary of past year's business development activities; summary of past year's project leads, including status and any next steps for the upcoming year.

## **C. OTHER DUTIES**

**1. ADMINISTRATION:** The Contractor shall ensure that complete client data information will be entered, updated and maintained in the ESD assigned CRM (client relationship management) system. This will include all required information, status and results of work orders or other requests, and applicable information to provide quality service to the clients. The Contractor shall also ensure that monthly and annual reports required are submitted by the established deadlines.

### **2. TECHNOLOGY REQUIREMENTS**

(a) Software: The Contractor shall secure and maintain licensed Microsoft office software (Word, Excel, and PowerPoint), that meets the following specifications:

- Must be able to support CRM (client relationship management) system
- Must be able to protect system from viruses and from infiltrating network worldwide.

(b) Communication: The Contractor shall secure and maintain communication services that meet the following specifications:

- Must be able to send and receive landline voice calls.
- Must have voice messaging capabilities.
- Must be proficient with Zoom or other video meeting tools as designated by ESD.
- Must have cellular phone capabilities.
- Must respond to voice messages and emails within one business day (principal or designee).

(c) Internet Access: The Contractor shall secure and maintain high speed internet services that allow for communications email messaging and CRM connectivity that support ESD objectives.

## **RESPONSIBILITIES AND TASKS GUIDELINES**

ESD has established the following guidelines for ESD's ITMs and IID, International Representative Office(s), and Individual Companies. Guidelines are subject to change.

### **International Trade Managers and International Investment Director**

- Identify and contact companies in industry sectors to ascertain interest in expanding internationally.
- Identify and qualify investment prospects and leads relevant to NYS regions and industries and convey such prospects to International Office Representatives.
- Visit NYS companies to:
  - Explain international trade development and International Representative Office services and available resources;
  - Collect information; and
  - Establish relationship.
  - Confirm that NYS company clients are export ready.
- Become familiar with company, product and industry characteristics.
- Assist NYS companies with an export strategy and market focus.
  - Ensure that the NYS company has completed an EMAS application form and provided all the necessary information and supporting documentation.
- Confirm that all data have been entered into CRM and that EMAS has been assigned to International Representative Office. Notify International Representative Office via e-mail that official request for assistance by this company has been completed.
- Notify appropriate ITM via e-mail that EMAS request has been initiated, with company contact information. When request is completed, notify again via e-mail.
- Follow up with the NYS company within two weeks after an overseas office response is provided to assess status and assist with next step.
- Inform company of any applicable events, trade shows or missions sponsored by ESD, US DOC, and other partners to assist with market penetration.
- Recommend that NYS company consider a future trip to work with International Office Representative in the market of interest (i.e., EMAS Plus).
- Proactively assist NYS company with export-related tasks and questions.

- Track and provide performance measurement data monthly.
- Develop and improve relationships with trade associations, Chambers of Commerce, universities and other partner organizations.
- Work with International Representative Office to assist with coordination of industry-related reverse trade missions.

### **International Representative Office(s)**

- Confirm receipt of EMAS request within 5 working days of assignment with ESD and email company within 5 business days to inform the company of the receipt of the EMAS request providing the estimated time frame for the start date of the initial kickoff call to begin work on the EMS request
- Complete request for trade assistance/work order within mutually agreed upon time between the ITM and International Representative Office at the time the request is opened. Assess the EMAS request and communicate projected turnaround to NYS company and ITM representative within two weeks after receipt.
- Conduct direct marketing campaign to support investment attraction lead generation.
- Generate qualified investment prospects and leads, based on company visits, trade/investment events, international market intelligence and prospects and leads received from NYS colleagues.
- Enter those investment leads rapidly into the supplied CRM system for qualification and tracking
- Review of product/company-specific assessment for marketability.
- Review of market entry recommendation.
- Perform trade and investment contact search.
- Analyze pricing information and provide competitive analysis.
- Provide in country assistance/visits with companies on a selective basis.
- Make recommendations for fine-tuning of marketing/promotional documents.
- Complete basic information reports on foreign companies - potential partners and competitors.
- Act as a translator for introductory meetings as required between NYS companies and potential partners.
- Compile results into comprehensive report for NY company, with copy to ITM and enter in CRM.
- Send comprehensive report in agreed upon format via e-mail and upload to CRM. Confirm to NY company and NY manager via e-mail that report has been sent.
- Track and provide performance measurement of CRM data monthly.

- Develop reverse trade mission opportunities as they arise; communicate and coordinate with NY manager to take advantage of potential export sales.
- Plan to participate in upcoming trade shows, trade missions, or in-country company visits to facilitate follow up from the International Representative Office report.

#### **IV. SCHEDULE OF DATES**

It is anticipated that a contract will be awarded in response to this RFP based on the following schedule:

Release of RFP	June 7, 2024
Deadline for Submission of Questions	June 14, 2024 by 5:00 PM EST
Deadline for ESD to Respond to Questions	June 21, 2024
Submission of Proposals (date and time)	July 8, 2024 by 2:00 PM EST
Interviews (if necessary)	TBD
Announcement of Successful Bidder	TBD
Anticipated Contract Start Date	TBD

Please note, the Corporation reserves the right to change any of the dates stated in this RFP.

## **V. SELECTION CRITERIA**

Proposals that meet all the mandatory qualifications as outlined above will be evaluated by ESD based on the Selection Criteria stated in this section.

Proposals will be scored based on the following criteria:

- 1) Respondent's experience and qualifications to carry out the scope of services **(20 Points)**
- 2) Staff experience and qualifications to carry out the project approach **(10 Points)**
- 2) Project approach and methodology **(20 Points)**
- 3) Anticipated cost for all services as set forth in the Financial Proposal. (NOTE: Do NOT substitute your own budget format). **(25 Points)**
- 4) Demonstrated Language Ability in English and official market languages **(10 Points)**
- 5) Demonstrated understanding of New York State and ESD **(10 Points)**
- 6) Experience planning, coordinating, and executing trade and investment missions. **(5 Points)**

Optional Extra Points (selected finalists only)

- 7) Interview/Oral Presentation **(25 Points)**

Interviews/Oral Presentation of finalists may be conducted at the discretion of ESD.

The interview/oral presentation will allow finalists to elaborate on information included in their proposals and provide additional information. The purpose of the interview/oral presentation is to provide ESD's Review Committee with an opportunity to 1.) Meet or talk with the finalists, 2.) Pose any questions that remain unclear in the proposals, and 3.) Obtain a more detailed understanding of the extent of the Contractor's knowledge of the RFP subject matter, project requirements and whether the methods and resources used by the Contractor are necessary, reasonable, and appropriate. The personnel directly responsible for the project will participate in the interviews/oral presentations including but not limited to travel in staff time shall be the sole responsibility of each finalist. ESD reserves the right to conduct the interviews at its New York, NY office, or via telephone, videoconference, or other online communication protocol.

## **VI. SUBMISSION OF PROPOSALS**

Every respondent to this RFP ("Bidder") should submit a proposal which clearly and concisely provides all of the information requested. Emphasis should be concentrated on conformance to the RFP instructions and requirements, as well as completeness and clarity in its proposal response. The Bidder is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with these instructions or do not meet the full intent of all the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive.

### **i. Technical Proposal**

Below is a listing of the technical information to be provided by the Bidder. No information is required beyond what is specifically requested.

- A. Table of Contents
- B. The NYS Worldwide Consultancy RFP Intake Form
- C. Firm Experience and Qualifications
- D. Staff Experience and Qualifications
- E. Project Plan and Approach
- F. Estimated Cost

Appendix D: The NYS Worldwide Consultancy RFP Intake Form must be completed filled out. If this document is not completed in full you will not be considered for the RFP. You may submit additional material, up to a total of 75 pages, to clarify and add other pertinent information to your response.

The purpose of the Technical Proposal is to provide Bidders with an opportunity to demonstrate their qualifications, competence, and capacity to undertake the engagement described herein, in a manner which complies with applicable laws and regulations, and the requirements of the RFP.

#### A. Table of Contents

The Table of Contents should clearly identify the location of all material within the proposal by section and page number.

#### B. Firm Experience and Qualifications

In this section of the Technical Proposal, Bidders should demonstrate relevant experience by the firm providing the knowledge and abilities to perform the services described in this RFP.

- 1) Experience in trade development, trade mission planning and execution, investment attraction, and/or marketing, with at least 5 years of such experience in the Designated Trade and FDI Area(s);
- 2) Fluency in reading, writing and speaking English, and official market language;
- 3) Demonstrated knowledge of the business communities in the Designated Trade and FDI Area(s), with specific knowledge of NYS targeted industry clusters preferred. Current residency in Designated Area(s) is also required;
- 4) University degree: business, international business or related subjects;
- 5) Demonstrated knowledge of New York State (i.e., economics, geography, business community); and
- 6) At least 5 years of experience in providing the trade and investment services described in this RFP. At least 5 years of experience in direct business marketing and outreach through various sales, distribution and virtual channels including social media.
- 7) Provisions in place for an employee backup plan should key personnel have unexpected absences. This plan could include cross-training amongst employees and/or a plan to quickly hire replacements as required to fulfill the responsibilities of the RFP.

Information provided by references may be used by the Corporation for proposal evaluation purposes. The Corporation may seek additional information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFP, and the responsiveness of the Bidder to the client during the engagement. The Corporation reserves the right to deploy, at its sole discretion, a variety of methods and communication approaches to contact references, depending on what the Corporation deems to be the most effective and efficient manner.

#### C. Staff Experience and Qualifications

In this section of the Technical Proposal, Bidders should demonstrate that the staff proposed have the knowledge and ability to perform the services described in this RFP including cross training for key personnel roles.

Information provided by references may be used for proposal evaluation purposes. The Corporation may seek additional information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFP, and the responsiveness of the Bidder to the client during the engagement.

#### D. Project Plan / Approach

In this section of the Technical Proposal, Bidders should demonstrate their competence and capacity to undertake the services described in this RFP by providing the following:

For purposes of the RFP, Designated Trade Areas and Designated FDI Areas are defined in Section II. OVERVIEW above. Firms wishing to submit proposals who cannot represent the entire area should indicate so in their proposal. The selected representative will have the ability to cover the markets of interest to perform the tasks described in the Scope of Services paragraphs. There is no requirement to establish or maintain a separate or standalone New York State office. Any existing offices of the representative will be sufficient as long as they have the required technology and communications suite to communicate and report results to the department in the required manner.

The selected representative shall perform trade and investment related activities under the direction of the department project managers. ESD will assign a program manager/director to manage "trade/export" related activities and a separate manager/director to manage inward international investment into New York State (Foreign Direct Investment / FDI) activities. Each manager will communicate to the representative and provide program management and oversight (including expenditures) for each representative area.

**E. Estimated Cost: ESD is seeking representation for the trade and investment interests of the State of New York in the designated areas for a five (5) year designation. In this section bidders should provide the cost and expected deliverables for a full service option, a goal based option, and a hybrid model. (This Paragraph has been replaced with the below.)**

*Estimated Cost: ESD is seeking representation for the trade and investment interests of the State of New York in the designated areas for a five (5) year designation. In this section bidders should provide the cost and expected deliverables for a full service contract.*

## ii. Administrative Proposal



- i. Schedule A of this RFP states standard requirements that must be included in every contract entered into with the Corporation. The successful Bidder must agree to abide by these requirements and provide any information requested by the Corporation in connection with these requirements. Accordingly, Bidders should complete and submit the items listed below, in the order in which they are listed. Failure to submit any of the requirements below may result in the rejection of a Bidder's proposal. <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>, submit with proposal
- ii. [State Finance Law §§139-j and 139-k forms](#), submit with proposal
- iii. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online (and include copy of submitted form with proposal)
- iv. <https://esd.ny.gov/sites/default/files/IranDivestmentActLanguage-corp-info.pdf>, submit with proposal
- v. <https://esd.ny.gov/sites/default/files/EO16-certification.pdf>
- vi. <https://esd.ny.gov/sites/default/files/EO-177-Certification.pdf>
- vii. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
  - o [OCSD-1 - MWBE and SDVOB Participation / EEO Policy Statement](#)
- viii. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
- ix. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#), submit with proposal
- x. [W-9 Form](#), submit with proposal

Additional information about these items, and ESD's procurement requirements, can be found in Section IX of this RFP ("Procurement Forms and Requirements").

### Submission of a Complete Two-Part Proposal

- Proposals must be uploaded to the Dropbox prior to the deadline as indicated in the Table of Events/Schedule of Dates.
  - o <https://www.dropbox.com/request/5xq1K1neWa4A5SJ4u3bS>
  - o **Proper format:** Please create a folder with:  
Respondent's name – Business Development Worldwide – Date of Submission.  
Example:  
Global Consulting, Inc. – Business Development & Related Services Worldwide – xx.xx.24
  - o Included in that main folder should be two sub-folders, one for the Administrative Proposal and the other for the Technical Proposal. The main folder should be uploaded to the Dropbox by choosing the following option: "Add Files → folders from computer". All documents in the two sub-folders should be properly labeled.

**Late proposals will not be considered for award.**

## **VII. QUESTIONS**

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section in accordance with the schedule in Section IV (Schedule of Dates) to [NYGlobal2024@esd.ny.gov](mailto:NYGlobal2024@esd.ny.gov). Questions will not be accepted orally, and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted with this RFP.

## **VIII. GENERAL PROVISIONS**

The issuance of this RFP and the submission of a response by a Bidder or the acceptance of such a response by ESD does not obligate ESD in any manner. ESD reserves the right to:

- i. amend, modify or withdraw this RFP;
- ii. revise any requirement of this RFP;
- iii. require supplemental statements or information from any responsible party;
- iv. accept or reject any or all responses hereto;
- v. extend the deadline for submission of responses hereto;
- vi. negotiate potential contract terms with any Bidder;
- vii. communicate with any Bidder to correct and/or clarify responses which do not conform to the instructions contained herein;
- viii. cancel, or reissue in whole or in part, this RFP, if ESD determines in its sole discretion that it is its best interest to do so; and
- ix. extend the term of any agreement on terms consistent with this RFP.

ESD may exercise the foregoing rights at any time without notice and without liability to any responding firm or any other party for its expenses incurred in preparation of responses hereto or otherwise. All costs associated with responding to this RFP will be at the sole cost and expense of the Bidder.

All information submitted in response to this RFP is subject to the Freedom of Information Law ("FOIL"), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person unless the content of the document falls under a specific exemption to disclosure. In addition, Proposals may be discussed at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

ESD reserves the right, in its sole discretion, to retain and use all the materials and information, and the ideas and suggestions therein, submitted in response to this solicitation (collectively, the "Response Information") for any purpose. By submitting a Proposal, each Respondent waives any and all claims against ESD relating to ESD's retention or use of the Response Information.

## **Required Approvals**

The awarded contract, if any, may be subject to review and approval by the Office of the State Comptroller ("OSC") pursuant to Public Authorities Law §2879-a and the regulations issued thereunder. Such OSC review and approval may be required of contracts with a value in excess of one million dollars, or modifications to contracts that result in an aggregate value in excess of one million dollars, where such contracts are paid in whole or in part with monies appropriated by the State, or were awarded on a basis other than a competitive procurement (as that term is defined in the law and regulations). If the awarded contract is subject to OSC review and approval, the contract shall not be valid and enforceable, nor shall the Corporation have any liability of any kind arising from or in connection with the contract, unless and until OSC approval has been received.

## **Performance**

The Contractor's performance will be assessed by the Corporation according to the achievement of The Contractor's contractual obligations in a timely and professional manner, as set forth in the resulting Contract. The Corporation will utilize progress reports and periodic meetings to ensure that the project is carried out on a timely basis and results in effective recommendations and work products.

Contractor warrants that its services shall be performed in accordance with applicable professional standards and that the Contractor shall correct, at no charge to the Corporation, services which fail to meet applicable professional standards and which result in obvious or patent errors in the progression of its work.

## **Additional Services Requested**

The Corporation may, at any time, by written notice, make changes or additions to work or services within the general scope of the contract resulting from this RFP (not to include professional services requiring licenses or specialized expertise such as engineering, architectural, and environmental consulting, abatement, treatment, and testing work) for unanticipated needs. If any such change or addition causes an increase or decrease in the cost of, or in the time required for, performance of the contract, an equitable adjustment may be made in the price using the billing rates set forth in the contract, and the Contractor shall be notified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that the Corporation, if it decides that the facts justify such action, may receive and act upon such claim as asserted at any time. Nothing in this clause shall excuse the Contractor from proceeding with this contract as modified.

## **Contractor Staff**

Contractor staff assigned to work on this project shall be subject to approval by the Corporation. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. The Contractor should notify the Corporation of any proposed changes in staff immediately. The Corporation has an absolute right and discretion to approve or disapprove any

proposed changes in staff. The Corporation, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld.

The Contractor specifically represents and agrees that its members, officers, employees, agents, servants, consultants, shareholders, and subcontractors have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder.

The Agreement resulting from this RFP is intended to secure the professional services of the Contractor because of its ability and shall not be assigned, conveyed, transferred, or disposed of by the Contractor.

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the State Project Manager. Approval shall not be unreasonably withheld upon receipt of written request to subcontract. All employees of the Contractor, or of its Subcontractors, who shall perform Services under this contract, shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Services on behalf of Contractor under the Agreement resulting from this RFP shall, in performing such Services, comply with all applicable Federal and State laws concerning employment in the United States.

## **IX. CONTRACTUAL REQUIREMENTS**

This section contains additional information about the forms that are required to be included in each Bidder's submission pursuant to Section VI of this RFP, as well as information about ESD's procurement requirements.

### **i. Conflicts of Interest**

Respondent must attest it has read, understood and will comply with the following provisions <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>. ESD shall have the right to disqualify any respondent to this RFP or terminate any contract entered into as a result of this RFP should ESD determine that the Respondent has violated any of these requirements.

- A. Gifts and Offers of Employment:** Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this procurement, offer to any employee, member or director of ESD, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the offer was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or

director. Respondent may not make any offers of employment or discuss the possibility of such offers with any employee, member or director of ESD who is involved in this procurement and/or resulting contract negotiation within at least 30 days from the time that the employee's involvement in this matter closed.

- B. Disclosure of Potential Conflicts:** Respondent shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers/employers of the Respondent or former officers and employees of ESD, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, Respondent must describe how it would eliminate or prevent it.
  
- C. Disclosure of Ethics Investigations:** Respondent must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any ongoing investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

**ii. State Finance Law Sections 139-j and 139-k forms**

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential Bidders and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed above; the completion by Bidders of the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC web site under "RFPs/RFQs"); and periodic updating of such forms during the term of any contract resulting from this RFP.

Bidders must submit the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

[https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF\\_Law139\\_JK.pdf](https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf).

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by 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. If a Bidder is found to have knowingly and willfully violated the State Finance Law provisions, that 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 this 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. The designated contact account for this solicitation is referenced on the cover of this RFP.

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

[http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy\\_Jan2007.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf). All potential Bidders are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

### **iii. Vendor Responsibility Questionnaire**

All Bidders to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of the contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ESD requires that all Bidders register in the State's Vendor Responsibility System (“Vend-Rep System”). The Vend-Rep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Bidders are to file the required Vendor Responsibility Questionnaire online via the Vend-Rep System or may choose to complete and submit a paper questionnaire. Please include a copy of your Vend-Rep submission receipt or paper questionnaire with your proposal.

To enroll in and use the Vend-Rep System, see the System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the Vend-Rep system online at <https://www.osc.state.ny.us/state-vendors/vendrep/vendrep-system>. For direct Vend-Rep System user assistance, the Office of the State Comptroller’s Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

Bidders opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website ([http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm)) and execute accordingly pertaining to the company’s trade industry. Per the website, Bidders are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).”

In addition, please see link to EO-192: [https://ogs.ny.gov/system/files/documents/2021/09/eo-192-vendor-integrity\\_0.pdf](https://ogs.ny.gov/system/files/documents/2021/09/eo-192-vendor-integrity_0.pdf).

**iv. Iran Divestment Act**

Every Proposal made to ESD pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. For further information and to view this list please go to: <https://ogs.ny.gov/iran-divestment-act-2012>.

**v. Executive Order 16**

In accordance with New York State Executive Order 16 ("EO-16"), all bidders must certify that they are in compliance with EO-16 prohibiting State Agencies and Authorities from Contracting with Businesses in Russia. EO-16 will remain in effect while sanctions imposed by the federal government are in effect.

"By submission of a bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is in compliance with EO-16."

The required certification for can be found at:

<https://esd.ny.gov/sites/default/files/EO16-certification.pdf> and must be signed and included in all Proposals.

**vi. Executive Order 177**

In accordance with New York State Executive Order 177, all bidders must certify that they are in compliance with the New York State Human Rights Law which prohibits discrimination and harassment based on a protected class, and which requires reasonable accommodation for persons with disability or pregnancy related conditions.

The required certification for can be found at:

<https://esd.ny.gov/sites/default/files/EO-177-Certification.pdf> and must be signed and included in all Proposals.

**vii. Non-Discrimination and Contractor & Supplier Diversity Requirements**

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE-CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ESD is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of ESD contracts.

#### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, ESD hereby establishes an overall goal of **0** percent for MWBE participation, **0** percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and **0** percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs).

#### **Equal Employment Opportunity Requirements**

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions [\*\*SCHEDULE B - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES\*\*](#). The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, OCSD-1, to ESD with its bid or proposal.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

The required forms can be found at the following web addresses:



Form OCSD-1: <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at [OCSD@esd.ny.gov](mailto:OCSD@esd.ny.gov).

## **PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, ESD conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The directory of New York State Certified SDVOBs can be viewed at: <https://online.ogs.ny.gov/SDVOB/search>.

Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

### **viii. Encouraging the Use of NYS Businesses in Contract Performance Form**

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. In order for ESD to assess the use of New York State businesses in each Proposal, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses in Contract Performance form, accessible here:

<http://esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSESINCONTRACTPERFORMANCE.pdf>.

**ix. Certification under State Tax Law Section 5-a**

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a (“STL 5-a”). STL 5-a prohibits ESD from approving any such 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 Bidders to this solicitation must include in their Proposals a properly completed Form ST-220-CA ([http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)), or an affidavit ([http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL\\_5A\\_Affidavit.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf)) that the Respondent is not required to be registered with the State Department of Taxation and Finance. 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. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered 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.

**x. Schedule A**

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent’s responsibilities in conformance with Schedule A. A sample can be found at: [https://esd.ny.gov/sites/default/files/ScheduleA-Services\\_Materials-3818.pdf](https://esd.ny.gov/sites/default/files/ScheduleA-Services_Materials-3818.pdf)

Please note Bidders do not need to complete the entire Schedule A with the submission of their Proposal. However, Bidders should still review these terms, which are standard in all ESD contracts, and raise any concerns present prior to submission of their Proposal, as successful Bidders will need to accept these terms prior to contract execution.

**xi. Project Sunlight**

This procurement is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, “appearances” (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ESD by a person (also broadly defined) for the purposes of procuring a state contract (as contemplated in this RFP) must be reported by ESD to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Bidders and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

**xii. Insurance Requirements**

The selected Bidder will be required to provide the following insurance (at a minimum and to the extent applicable):

- Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate;
- In the event that you are using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million;
- Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits;
- Must show evidence of Disability insurance coverage at State statutory limits;

NYS Urban Development Corporation d/b/a Empire State Development (ESD) must be named as additional insured on a primary and non-contributory basis on all of the following policies: Commercial General Liability and Auto Liability. All policies above should include a waiver of subrogation in favor of ESD.

**xiii. W-9 Form**

Provide a completed W-9 form (<https://www.irs.gov/pub/irs-pdf/fw9.pdf>), submit with proposal.