



NEW YORK
STATE OF
OPPORTUNITY™

**Empire State
Development**

**New York State's
Community Development Financial
Institution (CDFI)
Assistance Program Round 24
Request for Applications**

ISSUED: Friday, December 13, 2024

Designated Contacts for this Request for Applications:

Morgan Clark

Caitlin Armstrong

All contacts/inquiries shall be made by email to the following address:

CDFI24RFA@esd.ny.gov

APPLICATIONS DUE DATE AND TIME:

On or before January 31, 2025, at 3 pm EST.

Applications must be emailed by this date and time.

Late applications cannot be accepted

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.

A. Program Summary

Up to \$1,495,000 in grant support is available to certified Community Development Financial Institutions that make loans to small businesses. The purpose of ESD’s Community Development Financial Institution (CDFI) Assistance Program (the “Program”) is to strengthen and expand the capacity, products, and services of certified CDFIs’ lending programs for small businesses throughout New York State. This program focuses on providing technical assistance to small businesses in need. If your organization is interested in accessing loan loss reserves, please review the Capital Access Program. For more information on the Capital Access Program, please visit [Capital Access Program | Empire State Development \(ny.gov\)](#).

B. Request for Applications Schedule

Release of Request for Applications	Friday, December 13, 2024
Deadline for Submission of Questions	Monday, January 6, 2025
Deadline for ESD to Respond to Questions	Monday, January 13, 2025
Submission of Applications (date and time)	Friday, January 31, 2025; 3:00 PM EST
Announcement of Selections	Dependent on ESD Board Approval
Anticipated Contract Start Date	March 2025

II. PROGRAM GUIDELINES

- A. Projects - ESD seeks applications from certified CDFIs that will have the following effects in the communities in which they are located:
1. Facilitate, provide, and increase access to capital in order to increase business ownership and business expansion among small businesses, with special emphasis on minority group members and women and those that operate in distressed and highly distressed communities.
 2. Connect small businesses to financial resources, including, but not limited to SSBCI capital programs (New York Forward Loan Fund 2, SBRLF, CAP) and other ESD small business initiatives.

3. Help small businesses access capital to develop physically located and virtual business strategies for online outreach and consumption, maintain revenue and retain employees, with special emphasis on minority and women-owned firms.
 4. Facilitate the creation/retention of private sector jobs;
 5. Provide capacity building to existing businesses to identify and grow into new markets, expand geographic reach, and create additional revenue sources;
 6. Expand the capacity and effectiveness of certified CDFIs to serve a greater number of small businesses by leveraging existing resources and investing in new initiatives with partnerships that incorporate technology, improve efficiencies of operations, and devise new ways to serve the target market;
 7. Demonstrate the ability to secure and leverage non-state resources to provide a greater range of resources for access to capital and overall greater number of businesses served.
 8. If seeking resources for institutional capacity, one must demonstrate tools used to measure institutional capacity and detail its immediate impact.
- B. Eligibility Requirements - To be eligible to receive grant proceeds from ESD, all applicants must:
1. Provide proof that the organization is certified by the United States Department of the Treasury as a CDFI on the date of grant approval by ESD's Chief Executive Officer, and on the dates of all disbursements of ESD funds. Program awards will be contingent upon current Federal certification and/or recertification status.
 2. Provide a comprehensive strategic plan for the organization. Plan narrative should include:
 - a. a summary that details the following: a discussion on mission, markets served, competition, targeted regions and clients, organization infrastructure and resources to support ongoing activities, management team and any foreseeable challenges to goals of the Program. Further, the applicant must demonstrate that the applicant is/will be properly managed and will have the capacity to operate as a community development financial institution that will not be dependent solely upon assistance from the Program for continued viability.
 - b. a plan to coordinate use of assistance from the Program with existing Federal, State, local government assistance programs, and/or private sector financial services.
 - c. a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, or other services to small businesses.
 - d. Grant proceeds shall be matched with funds from sources other than the State's on the basis of not less than 25% of the award. Matching funds shall be comparable in-kind services or equal cash value to assistance provided by the Program. ESD shall provide no financial assistance until the CDFI has secured firm commitments for the matching funds required. Include a

detailed description of the applicant's plan and likely sources of funds to match the amount of assistance provided by the Program.

3. Obtain New York State Prequalification and related registration standards through the Grants Reform System. This will ensure eligibility to participate in this and future RFAs and receive potential program awards.
4. Primarily focus its activities on small business lending, as described in section IV of this RFA.
5. Be legally able to receive and use the proceeds as herein stated.
6. Meet any other requirements herein stated for the specific purpose of the grant.
7. Be current with reporting requirements for any other ESD assistance, including any previous CDFI Program funding.
8. Must have met or exceeded prior ESD CDFI Program goals (if applicable). Must be in compliance with CDFI Round 23, if the organization is not in compliance, this will hinder your score and potential participation in CDFI Round 24. Previously issued awards do not guarantee awards in this or future rounds of the program

C. Applications

- a. Organizations must demonstrate the ability to provide CDFI services in an impactful and cost-effective way independently.
- b. Applicant must demonstrate strong lending capacity or the ability to match borrowers to CDFI lenders and the capacity to provide independent technical assistance services, such as one-on-one assistance, peer lending groups and strong training components associated with access to capital.
- c. Organizations must show in their application how the requested funding and leveraged resources can provide for greater impact by serving small business, start-ups, growing companies, and businesses going virtual and retaining physical locations throughout NYS.

D. Grant Amount

Grant awards will generally not exceed \$80,000 ESD reserves the right to award grants in amounts greater than \$80,000 depending upon the number and quality of applications received and other considerations set forth in this RFA. The project period will generally be no longer than twelve (12) months. All awarded grants require complete payment request packages that must include all supporting documentation for each expense incurred under the award, otherwise payments will not be processed.

E. Funding Source

The Program is funded from the 2023-2024 New York State CDFI Budget Appropriation of \$1.495 million. This is subject to availability of New York State funds.

F. Project Timeline

Project period will be March 2025 through February 2026.

G. Additional Conditions

1. Project final payment requests from the previous CDFI Assistance Program round must be submitted on or before the start date of the new project, if awarded.
2. The organization must be in compliance with CDFI Round 23. If the organization is not in compliance with CDFI Round 23, this will be reflected in your score and potential participation in CDFI Round 24.
3. ESD will establish reporting requirements to account for the utilization of grant proceeds by the CDFI. The grant is to be used only for the purposes stated in the organization's application or otherwise approved, in writing, by ESD.
4. All activities generated by funding from ESD, or toward which ESD grant proceeds are used, shall be conducted according to the standard business practices of the recipient organization and any agreements with ESD.
5. Previously issued awards do not guarantee awards in this or future rounds of the program.

III. SCOPE OF WORK

The Program will make grants available to CDFIs for three general purposes:

A. The Provision of Technical Assistance

Funds may be used to provide Technical Assistance ("TA") to small businesses that currently have outstanding loans from the organization or that may borrow funds from the organization within one year of the date of application for ESD funds. This TA should be geared towards ensuring the success of business borrowers and the repayment of their loans. In addition, funds may be used to provide TA to existing borrowers or potential borrowers to obtain State M/WBE Certification. Funds may also be used to provide technical assistance to small businesses who are applying to SSBCI Programs and other ESD State initiatives such as CAP 2, SBRLF, Contractor Financing and New York Forward Loan Fund 2.

Preference will be given to applications that emphasize the provision of one-on-one consultation with borrowers, on such business development topics as financial record keeping and financial statement preparation, tax issues, marketing, business growth strategies, market expansions, exporting, the use of technology, etc. TA may be provided by qualified staff or outside business development consultants.

For grant proceeds to be used toward technical assistance:

1. The applicant must take specific actions to ensure the participation of small businesses in the TA program, as well as those that are located in distressed and highly distressed areas.
2. The assistance must be directly relevant to the beneficiaries' businesses and provide help with access to capital and financial resources to achieve business retention, growth, and success.

B. Institutional Capacity

Up to 30% of the grant proceeds may be used for institutional capacity. Funds may be used to increase the institutional capacity of the CDFI and strengthen its provision of products and services to small businesses to grow both local and global markets for exports, or to scale up and increase efficiencies in operations and sustainability by leveraging technology and targeting strategic partnerships. Funds requested for Institutional Capacity under this RFA cannot exceed more than 30% of total funds requested. Funds may be used to support activities that enhance management capacity, organizational development, and new programmatic lending activities so that the CDFI can improve, strengthen, scale its performance, offer enhanced or new products and services, and/or encourage greater client participation in current programs. Preferred activities include assessing the present and future needs of the organization's target market, developing offering of niche products and services, assisting clients to explore global markets and expansion, targeting new high growth industries, developing new platforms or partnerships to reach and serve a greater number of clients, evaluating the economic impact of past activities, and establishing systems for evaluating and reporting the impact of future activities. In addition, funds may be used for specific purposes including, but not limited to, the hiring of consultants, implementation of a market survey or marketing campaign and the purchase of computer software. Note, funds may not be used to purchase computer hardware, nor fund recurring, ongoing operational expenses. If previous CDFI grant funds supported Institutional Capacity, request for financial assistance in this round cannot include the same activities. Further, tools and measurements of success and goals must be provided clearly to demonstrate institutional capacity investments' impacts and outcomes.

C. Administrative support

Up to 10% of the grant proceeds may be used for administration of the CDFI's technical assistance and small business lending programs, including the costs of administering ESD grants, and other overhead and indirect costs (i.e., a portion of the rent or utilities, marketing materials, supplies or salaries) associated with the provision of technical and financial assistance.

IV. REQUIRED INFORMATION

Please provide a narrative that includes the following sections in the following order, using the headings listed below. Please limit your narrative to small business assistance in New York State.

A. Organization Information

1. General: Describe the following:

- a. The organization's mission and history, including the number of years of providing technical and financial assistance to small businesses and efforts to serve start-up firms and expanding businesses.
- b. a plan to coordinate and leverage use of assistance from Program with existing non-state funds; at least 25% of matching funds have to be secured to leverage grant requests.
- c. The geographic service area/s and/ or targeted populations served by the organization, including any emphasis on startups, expanding businesses, credit risks, other businesses that lack access to credit or are unable to secure access to capital in the traditional market. Please comment on the distribution of clients served across your geographic service and the percentage of your clients that are located in distressed and/ or highly distressed communities. The types of financial and technical assistance products and services offered and how many clients receive these services each year and how the organization see that growth in the coming year.
- d. The organization's marketing strategy and outreach coordination with other community-based organizations. Please be specific about how the organization works with other community-based organizations to reach small businesses. Please include efforts to work with women and minority organizations, associations or chambers of commerce.
- e. The organization's plan to serve clients remotely and in-person.
- f. The organization's plan to serve a greater number of clients by leveraging technology and strategic partnerships; addressing ways that the organization intends to grow its programs and technical assistance services; offering new services to assist clients expand into global markets; and serving new geographic areas or a niche industry.
- g. Describe organization's lending portfolio for the last three years, including current status, underwriting practices, loan

loss reserve at hand, loan loss ratio for the last three years; delinquency ratios; and current total capital available for lending.

- h. Describe what the organization sees as their greatest challenges in fulfilling the goals of the program, and how they plan to mitigate these challenges to ensure program success.

B. Project Activities, Results, and Implementation

Describe in detail how this grant from ESD would be used:

1. Describe the specific activities that will be undertaken and funded through the project.
 - a. Describe in detail the nature of technical and financial assistance to be provided, describe the systems in place to deliver these services, and the ways that such technical/financial assistance will support your organization's lending and access to capital activities. Describe the overall technical/ financial assistance program as well as the specific ways in which ESD grant funds will be used. If the provision of one-on-one technical assistance to businesses is identified as a measurable goal in section 2.b below, such assistance must be substantive and generally should involve face-to-face meetings, in keeping with social distancing, if applicable. If face to face meetings are not feasible, please discuss how services will be delivered virtually effectively. Assistance should be provided on business development topics and may include capital structuring and financing plans, financial analysis, marketing, and the assistance with the preparation of business plans, financial statements and applications for financial assistance, expansion strategies, business going digital or virtual strategies, and developing an exporting plan. Please indicate the number of businesses to which your organization will provide TA, and the percentage of clients that will receive pre-loan and post loan TA and packaging.
 - b. If proposing activities open to the public such as workshops and seminars (while keeping social distancing guidelines, if applicable), describe those specific actions that will be taken to ensure the participation of minorities and women and efforts that will be taken to continue to engage participants once the event ends, as well as tracking business outcomes.

- c. If requesting funds for institutional capacity, refer to the guidelines set forth in Section III of this RFA and provide the information specified in that Section.
 - d. Identify the reasons that your organization requires grant assistance in order to undertake these activities.
 - e. Identify any other entities involved in the project (other community development organizations; units of local, state or federal government, etc.) and describe the nature of their involvement.
 - f. Provide a detailed plan identifying any and all subcontracting opportunities associated with this project and explain how MWBEs, and Service-Disabled Veteran-owned Businesses (SDVOBs) would be utilized.
2. List the specific goals that the organization will achieve as a direct result of the requested grant funding and provide a timeline for the project (See Attached Exhibit D).
 - a. Include the measurable outcomes and the economic impact to be achieved as a direct result of ESD grant funding. These goals should be realistic and achievable based on the applicant's experience in operation as a CDFI. The proposed goals should reflect only the funding being requested. Applicants may also describe goals for the organization as a whole and the ways that ESD's grant funds would contribute to the attainment of these broader goals.
 - b. Describe how these goals compare to the organization's achievements in the past three years.
3. Provide a detailed budget for the project.
 - a. Include funding sources, personnel service costs (with job title and description), consultant fees (identify consultant if known), and a breakdown of all costs related to providing Technical Assistance or institutional capacity.
 - b. Describe the ways, if any, that ESD's grant finds would leverage other revenue sources.
 - c. Add sources of match and utilization of match into the budget provided. A minimum of 25% non-State sources is required to be provided for any request of funds from this RFA.
4. Provide the following:
 - a. Completed Exhibit A: Cover Sheet
 - b. Complete Exhibit B: Proposal Summary

- c. Complete Exhibit C: Proposed Budget
- d. Complete Exhibit D: Project Description – Tasks & Timeline
- e. Annual Financial statements for the past three years, including a draft of the applicant’s internal statements or the most recent interim statements, if annual statements are more than 12 months old.
- f. Proof of current federal CDFI Certification and/or recertification.
- g. If the applicant has previously received ESD funding through the CDFI Assistance Program, attach:
 - i. A copy of the final report (GDA Exhibit B, page 1 of 3 ONLY without the attachments) submitted for the last two completed projects,
 - ii. An interim Technical Assistance and Lending Report and Institutional Capacity Report (GDA Exhibit G-2) without attachments from any grant disbursement agreement still in effect (primarily Round 23 of the CDFI Assistance Program) with a description of the organization’s cumulative progress toward meeting goals. If your organization has not yet met 50% of its Round 23 goals, please include a brief narrative explaining why.

V. SELECTION CRITERIA

- A. ESD will balance individual application scores with priorities for geographic distribution across NYS. The evaluation criteria will include the following:
 - 1. Completeness of the application.
 - 2. Organizational capacity, stability, feasibility and impact of proposed activities.
 - 3. The applicant’s record in meeting the performance goals, timelines and reporting requirements established under previous CDFI Assistance Program awards from ESD, if any. ESD may choose not to consider applications from organizations that are not in compliance with the contracting and reporting requirements of previous CDFI Assistance Program awards, or that have substantial funding available through previous awards.
 - 4. Compliance of the application with the “Guidelines” section and other terms and conditions of this request for applications.
 - 5. The applicant’s record in meeting the performance goals, timelines and reporting requirements established under previous CDFI Assistance Program awards from ESD, if any. ESD may choose not to consider applications from organizations that are not in compliance with the contracting and reporting requirements of previous CDFI

Assistance Program awards, or that have substantial funding available through previous awards.

6. The applicant's operating budget and institutional capacity for using grant funds effectively.
7. Applicant's ability to leverage other non-state funds.
8. The applicant's capacity to illustrate a strategic plan and describe how ESD's assistance will help the grantee achieve this plan.
9. Applicant's ability to sustain and propose a plan to expand a strong lending base, geographic coverage, underwriting capacity, deal-sourcing capacity and a low default ratio.

B. Additional Considerations

1. In cases where applicants propose activities that are similar to those funded by ESD via existing or pending CDFI Assistance Program agreements with the applicant ("Follow-on Activities"), ESD may choose not to approve additional funding for such activities. If ESD does agree to fund such Follow-on Activities, no new grant funds awarded pursuant to this RFA for such activities will be disbursed until the similar activities funded through existing agreements have been completed in accordance with the terms of such agreements. ESD alone will determine whether proposed activities qualify as Follow-on Activities.
2. By submitting its application, each applicant authorizes ESD to contact any and all other persons identified in its application or in any investigation conducted by or on behalf of ESD or the State and obtain the release of pertinent financial and other information, as well as to obtain verification of the information provided by each applicant.
3. ESD will not be held liable for any costs incurred by any applicant for work performed in the preparation and production of an application, nor for any work performed prior to written authorization from ESD to proceed. All applications submitted will become the property of ESD.
4. ESD reserves the right to:
 - a. Reject any or all applications received;
 - b. Award grants in any amount;
 - c. Require the submission of modifications or additions to applications as a condition of further participation in the selection process; and
 - d. Amend this request for applications.

VI. SUBMISSION OF APPLICATIONS

- A. Please submit a zip folder including a PDF of each section of the application to CDFI24RFA@esd.ny.gov, as well as an original copy of the entire application in addition to a thumb drive of the same to the address below.

Morgan Clark/
Caitlin Armstrong
CDFI 24 RFA

Empire State Development
655 Third Avenue,
New York, NY 10017

RFA Document Checklist for Submission:

Please check off each item for a completed application.

- Completed Exhibit A: Cover Sheet (please save the file as:
OrgName_CDFI24_ExhibitA_CoverSheet)
- Completed Exhibit B: Proposal Summary (please save the file as:
OrgName_CDFI24_ExhibitB_ProposalSummary)
- Completed Exhibit C: Proposed Budget (please save the file as:
OrgName_CDFI24_ExhibitC_ProposedBudget)
- Completed Exhibit D: Project Description – Task & Timeline (please save the file
as: *OrgName_CDFI24_ExhibitD_ProjectDescription*)
- Annual Financial Statements for the past three years, including a draft of the
application’s internal statements or the most recent interim statements, if
annual statements are more than 12 months old (please save the file as:
OrgName_CDFI24_FinancialStatement_year or
OrgName_CDFI24_InterimStatement_year)
- Proof of current federal CDFI Certification and/or recertification (please save the
file as: *OrgName_CDFI24_CDFICertification*)
- Set up in NYS Grants Gateway and confirmation (please take a screenshot and
save the file as: *OrgName_CDFI24_GrantsGatewayConfirmation*)
- If the applicant has previously received ED funding through the CDFI Assistance
Program, attach the following:
 - A copy of the final report (GDA Exhibit B, page 1 of 3 ONLY without the
attachments) submitted for the last two completed projects (please save the
file as: *OrgName_CDFI24_FinalReport_ExhibitB (CDFI23)*),
 - An interim Technical Assistance and Lending Report and Institutional
Capacity Report (GDA Exhibit G-2) without attachments from any grant
disbursement agreement still in effect (primarily Round 23 of the CDFI
Assistance Program) with a description of the organization's cumulative
progress toward meeting goals. If your organization has not yet met 50% of
its Round 23 goals, please include a brief narrative explaining why. (Please
save the file as: *OrgName_CDFI24_ExhibitG2(CDFI23)*)

- Lastly, all the required information referenced on page 6, section IV of the RFA.

VII. DEFINITIONS

For the purposes of this Application for Assistance the following words or terms shall mean as follows:

A. Minority Business Enterprise (“MBE”)

A business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing; (iii) an enterprise in which such minority ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) authorized to do business in the State of New York, is organized on a for-profit basis, and is independently owned and operated out of a fixed business location; (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (vi) an enterprise that is a small business pursuant to subdivision twenty of this section.

B. Small Businesses

A small business shall be deemed to be one which is resident in New York State, independently owned and operated, not dominant in its field, and employs one hundred or less persons.

C. Minority Group Member

A United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

D. Women-owned Business Enterprise (“WBE”)

A business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing; (iii) an enterprise in which such women ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (iv) authorized to do business in the State of New York, is organized on a for-profit basis, and is independently owned and operated out of a fixed business location; (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of

January for inflation according to the consumer price index of the previous year; and (vi) an enterprise that is a small business pursuant to subdivision twenty of this section.

E. M/WBE Certification

The official determination by the New York State Division of Minority and Women's Business Development of a business enterprise as a bona fide minority and/or woman-owned business enterprise.

For more information on M/WBE certification, please see our website at: www.esd.ny.gov/mwbe.html or call (1-800-782-8369) for more information.

F. Technical Assistance

Business technical assistance is provided to an entrepreneur to address ongoing or specific challenges or needs, such as the development of a business plan or the resolution of a production or marketing problem. When a business is in formation, monitoring will help define specific and/or ongoing needs early. This assistance often is on a one-to-one basis in a consulting format.

Technical assistance may also be provided to assist clients in obtaining State M\WBE Certification.

G. Institutional Capacity/ Capacity Strengthening

Institutional capacity building is defined as the provision of technical or material assistance designed to strengthen one or more elements of organizational effectiveness. The elements of organizational effectiveness include governance, management capacity, human resources, financial resources, service delivery, external relations and sustainability. Examples include the purchase of software, training of staff, conducting research studies for expansion or growth and marketing.

H. New York Prequalification

The Grants Gateway was established to improve the way grants are administered by the State of New York. Beginning July 31, 2013, all not-for-profit organizations receiving funds from New York State agencies and authorities must be prequalified in Grants Gateway prior to the execution of a contract or a contract amendment. For additional information, please refer to GrantsReform@Budget.ny.gov.

VIII. QUESTIONS

- A. All questions, comments, requests for clarification or any other communication regarding this Application for Assistance must be submitted by email to: CDFI24RFA@esd.ny.gov no later than January 6, 2025.
- B. In addition, any changes, additions or deletions to this Request for Application will also be posted on the Contract Reporter, along with the electronic version of this Request for Application. Respondents should note that any necessary clarification must be sought by the

deadline for questions set forth in the “Schedule of Dates” section in this Request for Applications.

- C. Applicants are urged to check NYS Contract Reporter frequently for notices of any clarification of or changes, additions, or deletions to this Request for Applications.

XI. GENERAL PROVISIONS

The issuance of the RFA and the submission of an application by a firm or the acceptance of such an application by ESD does not obligate ESD in any manner. ESD reserves the right to:

- A. Amend, modify or withdraw this RFA;
- B. Revise any requirement of RFA;
- C. Require supplemental statements or information from any responsible party;
- D. Accept or reject any or all responses hereto;
- E. Extend the deadline for submission of application hereto;
- F. Negotiate potential contract terms with any applicants to this RFA;
- G. Discussions with any applicant to this RFA to correct and/or clarify application which do not conform to the instructions contained herein;
- H. Cancel, or reissue in whole or in part, this RFA, if ESD determines in its sole discretion that it is in its best interest to do so; and
- I. Extend the term of any agreement on terms consistent with this RFA.

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

All information submitted in response to this RFA 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, all applications may be discussing at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

IX. SUBMISSION REQUIREMENTS

A. PROCUREMENT FORMS AND REQUIREMENTS

a. Vendor Responsibility Questionnaire

All Respondents to this RFA 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 RFA, 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 RFA.

To assist in the determination of responsibility, ESD requires that all respondents to this RFA 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. Respondents 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 application.

To enroll in and use the Vend-Rep System, see the System Instructions available at [The VendRep System | Office of the New York State Comptroller \(ny.gov\)](#) or go directly to the Vend-Rep system online at [New York State Comptroller - Online Services](#). 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.

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website ([Vendor Responsibility Forms | Office of the New York State Comptroller \(ny.gov\)](#)) and execute accordingly pertaining to the company’s trade industry. Per the website, respondents are to “Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other).”

b. New York State Prequalification System for Grants Contract Vendors

To better serve the people of the State of New York, a web-based grants management system, Grants Gateway, was launched in spring 2013. The Grants Gateway was established to improve the way grants are administered by the State of New York. Beginning July 31, 2013, all not-for-profit organizations receiving funds from New York State agencies and authorities must be prequalified in Grants Gateway prior to the execution of a contract or a contract amendment.

Based on the above information, you are required to complete the steps outlined below to receive an executed contract or contract amendment. If you are not the appropriate contact for this communication, please forward to the person in your organization

responsible for the management of grant funding. Send any questions to GrantsReform@Budget.ny.gov with Prequalification in the subject line.

Register with the Statewide Financial System

1. The Registration Form is available for download at www.grantsreform.ny.gov. The Registration Form can be accessed by clicking the link at the top of the page in yellow labeled "Click HERE to access the Portal or browse for more information below".
2. Include your State Financial System ("SFS") Vendor ID on the Form; if you are a new vendor and do not have a SFS Vendor ID, include a Substitute for W-9 with your signed, notarized registration (also available from the Grants Reform Web site).
3. All registrations must include an Organization Chart in order to be processed.
4. Mail the completed Registration Form, Organization Chart that shows the Head of your Organization, and Substitute W-9 (if new vendor) to:
Division of Budget - Grants Reform
Agency Building 1 - 5th Floor
Empire State Plaza, Albany, NY 12224
5. When you receive your login information via email, log in and change your password. This password will allow access to the Grants Reform Web site.
6. Associate your organization with a State agency (ESD) by clicking on Organization(s) and then selecting Organization Information; complete all required fields.
7. Complete the Document Vault by uploading requested documents and answering all questions.
8. Upon completion of the Document Vault, submit it for review and prequalification.
If you believe your organization has submitted its Prequalification application and has submitted any requested documents omitted from your registration, please contact ESD's program representative or the Grants Reform Team by emailing GrantsReform@Budget.ny.gov with Prequalification in the subject line.

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

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-147, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and Women-owned Business Enterprises ("MWBE") and the employment of minority group members and women in the performance of ESD contracts.

BUSINESS PARTICIPATION OPPORTUNITIES FOR MWBEs

ESD has an agency-wide overall MWBE participation goal of 30%; 15% for New York State certified Minority-owned Business Enterprise (“MBE”) participation and 15% for New York State certified Women-owned Business Enterprise (“WBE”) participation.

A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document good faith efforts, pursuant to 5 NYCRR §142.8, to provide said meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and ESD may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or application, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or application. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD for review and approval.

ESD will review the submitted MWBE Utilization Plan and advise the respondent of ESD acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.

ESD may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If ESD determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or application in response to this solicitation, the respondent agrees with all of the terms and conditions in [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 application.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

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>

Form OCSD-2: <https://esd.ny.gov/sites/default/files/media/document/OCSD-2-Staffing-Plan-07-16-24.pdf>

Form OCSD-3:

<https://esd.ny.gov/sites/default/files/media/document/OCSD-3-Workforce-Utilization-Report-070124.xlsx>

Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4%20Utilization%20Plan.pdf>

Form OCSD-5: <https://esd.ny.gov/sites/default/files/media/document/OCSD-5-Waiver-Request-Form-073124.pdf>

Form OCSD-6: <https://esd.ny.gov/sites/default/files/media/document/OCSD-6-Compliance-Report-073124.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.

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

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), 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 are expected to include 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.

Contract Goals

- A. Contractor shall use good faith efforts, pursuant to 9 NYCRR §252.2(n), to achieve an overall participation goal of 6% for New York State certified Service-Disabled Veteran-owned Business Enterprise ("SDVOB") participation. Any utilization of SDVOBs would be in addition to goals established pursuant to Article 15-A of the Executive Law with respect to MWBEs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://sdves.ogs.ny.gov/business-search>. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document such "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form OCSD-4.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.
- C. ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.
- E. ESD may disqualify a Bidder's bid or application as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan.
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency.
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If ESD determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the

occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.

B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD but must be made no later than prior to the submission of a request for final payment on the Contract.

D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

(1) Copies of solicitations to SDVOBs and any responses thereto.

(2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.

(3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.

(4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.

(5) Other information deemed relevant to the waiver request.

Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to ESD during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form OCSD-6 available on the ESD website and should be completed by the Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

General inquiries or questions relating to aforementioned policies, SDVOB participation and the goals specified herein may be addressed to OCSD at OCSD@esd.ny.gov.

INSURANCE REQUIREMENTS

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

1. Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate;
2. In the event that you are using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million.
3. Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits.
4. Must show evidence of Disability insurance coverage at State statutory limits.
5. Professional Liability (Errors & Omissions) Insurance of \$1 million.
6. Empire State Development 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 Empire State Development.