State Small Business Credit Initiative (SSBCI)
Technical Assistance Program
Request for Application

ISSUED: November 22, 2024

Designated Contacts for this RFA:
Primary Contact: Ralph Volcy
Secondary Contact: Bette Yee

All contacts/inquiries shall be made by email to the following address:
SSBCITARFA2024@esd.ny.gov

Proposals must be sent to the designated Dropbox:
https://www.dropbox.com/request/HGefVPYcMp1DeZjbbTjw

This RFA 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 EST on December 20, 2024
Late applications cannot be accepted.

Table of Contents

Glossary of Terms Used Throughout the RFA **3**

I. INTRODUCTION **5**

A. Project Summary *5*

B. Designation Period, Contract Amount, and Anticipated Funding *6*

C. Request for Application Schedule *6*

II. PROJECT **6**

A. Program Eligible Services, Objectives, and Goals *6*

i. Project Eligible Services 7

2. Project Objectives 7

3. Project Goals 8

B. Respondent Eligibility Requirements *8*

C. Grant Funding and Project Timeline *9*

1. Grant Amount and Completion Dates 9

2. Eligible and Ineligible Expenses 9

3. Budget: Eligible Expenditures 10

D. Data Collection & Reporting *10*

III. APPLICATION INFORMATION **10**

ASSEMBLE THE APPLICATION IN THE FOLLOWING ORDER: *11*

A. RFA Project Proposal 11

B. RFA Administrative Contractual Forms 11

IV. REVIEW CRITERIA AND PROCESS **12**

A. Review Criteria *12*

B. Review Process *13*

V. SUBMISSION OF APPLICATION **13**

VI. QUESTIONS **14**

VII. GENERAL PROVISIONS **14**

VIII. SUBMISSION REQUIREMENTS **15**

APPENDIX C: Administrative Proposal (Contractual Requirement Forms) **19**

Glossary of Terms Used Throughout the RFA

The following definitions apply to the terms used in this RFA. Terms defined herein are capitalized throughout the text of the RFA. Terms used within a definition that are also defined in this appendix are noted in italics.

Applicant: An eligible partner, partner organization, local development corporations, chambers of commerce, community-based business outreach centers and other community-based organizations, universities, community colleges, or university/college-affiliated organizations, and boards of cooperative educational services, or a collection of such institutions designated as Entrepreneurship Assistance Centers under this RFA.

Application: A Proposal submitted with a cover page, table of contents, glossary of terms used, and executive summary.

Authorized Organizational Representative: The institution's duly authorized representative with authority to enter legal agreements on behalf of, and commit resources of, the organization.

Award Recipient/Grantee: An Applicant that is selected for award by ESD under this RFA.

Classroom-style TA: Technical assistance services that are provided through a stand-alone event that is targeted towards eligible beneficiaries and has more than 10 attendees.

Commission: New York State Commission on Public Integrity or its predecessor State entities.

Cost Share Funds: A non-reimbursable component of a project's total cost that is reflective of the Applicant's and industry's commitment to the program. Refer to Section I.E. of this RFA for specific Matching Funds requirements.

EEO: ESD's Non-Discrimination and Equal Employment Opportunity policy

Eligible Beneficiaries: Shall mean Socially and Economically Disadvantaged Individuals (SEDI) -owned businesses and Very Small Businesses (VSB) that are applying for, preparing to apply for, or have previously applied for a SSBCI capital program or other federal or other small business program.

ESD: Empire State Development is the umbrella organization for economic development activity in New York State involving both Department of Economic Development (DED) and a public authority in the form of Empire State Development Corporation; however, awards (contracts) through this competition will be administered by (through) DED.

Entrepreneurship Assistance Centers ("EAC"): Shall mean the career education agencies, as defined thereafter, municipal agencies and not-for-profit corporations including, but not limited to, local development corporations, chambers of commerce, community-based business outreach centers and other community-based organizations that train minority group members, women, individuals with disability, dislocated workers and veterans in the principles and practice of entrepreneurship and all aspects of business development and small business management in order to prepare such persons to pursue self-employment opportunities and/or business enterprises.

Indirect Cost(s) or **Indirect Cost Rate:** Defined by Federal OMB Circular A-87 as the rate used for allocating those common costs that cannot be specifically allocated to a particular project or activity. A cost may not be allocated as an Indirect Cost if any other cost incurred for the same purpose in like circumstances has been assigned as a direct cost.

New York State Company, New York Company or Company in New York: A for-profit enterprise with a permanent place of business located in New York State employing a full-time workforce. The company's New York facility must either be (1) the intended recipient of the Center's assistance or (2) directly benefit from the Center's assistance. The Center's assistance must also demonstrably enhance the company's economic activity in New York.

One-to-One Technical Assistance (1:1 TA): One-to-One Technical Assistance typically refers to direct support provided to a small business or entrepreneur by a consultant or advisor. This assistance is tailored to address the specific needs and challenges of the business, focusing on improving operations, management, pre-loan and post-loan assistance, or strategic direction. Such TA is often integral to lender's efforts to strengthen the capacity and competitiveness of small businesses, preparing them for loan readiness. A minimum of two hours of TA is typically provided.

Partners: Legal, accounting, and financial advisory firms that the Eligible Respondent contracts with to provide services to Founders and Fund Managers.

Procurement Requirements: Conflict of Interest, State Finance Law Sections 139-j and 139-k, Vendor Responsibility Questionnaire, Insurance Requirements, Non-Discrimination and Contractor & Supplier Diversity Requirements, W-9.

Program Guidelines: U.S. Department of the Treasury State Small Business Credit Initiative Technical Assistance Grant Program Guidelines published on April 28, 2022 and all subsequent FAQs.

RFA: Request for Application for The State Small Business Credit Initiative (SSBCI) Technical Assistance

Response Information: Information contained in the response to this solicitation

SEDI: Socially and Economically Disadvantaged Individuals - Socially and economically disadvantaged individuals is defined by reference to section 8 of the Small Business Act (15 U.S.C. 637) and the regulations thereunder. This definition includes the following:

- Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

- Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

SEDI-Owned Businesses: Business enterprise owned and controlled by Socially and Economically Disadvantaged Individuals. As defined in 12 U.S.C. § 5701(15) such an enterprise is one that meets the following criteria:

(a) if privately owned, 51 percent is owned by one or more socially and economically disadvantaged individuals;

(b) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

(c) in the case of a mutual institution, a majority of the Board of Directors, account holders, and the community which the institution services is predominantly comprised of socially and economically disadvantaged individuals.

SSBCI: SSBCI is a program managed by the U.S. Department of the Treasury that allocates funding to state development finance agencies to create specialized small business access to capital programs.

SME: Small and Medium-sized New York State Company or Small Business: A New York State Company with its principal place of business in New York that employs 100 or fewer persons in total, including any parent companies or subsidiaries.

TA: Technical Assistance (TA) Funding to help ("SEDI")-owned businesses and VSBs access and apply for funding from an SSBCI-supported program or other federal or other jurisdiction small business program. TA for businesses is tailored to help entrepreneurs overcome specific challenges such as financial literacy, financial counselling, crafting a business plan, or solving marketing or production issues, etc. Small Businesses typically have strong operational skills but may fall short in areas like marketing, legal matters, or credit counseling. Targeted TA fills these knowledge gaps, making it a critical component for success. An effective TA program provides the necessary support to enhance the overall capabilities of small businesses.

VSB: "Very Small Business" may also include independent contractors and sole proprietors, that employs 10 or fewer employees across all its locations.

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. Project Summary

The American Rescue Plan Act of 2021 ("ARPA") reauthorized and amended the Small Business Jobs Act (SBJA) of 2010 to provide $10 billion to fund the State Small Business Credit Initiative ("SSBCI"), a federal program administered by the Department of Treasury ("Treasury"), to expand access to capital, promote economic resiliency, create new jobs, and increase economic opportunity. ARPA provided $9.5 billion for SSBCI capital programs to jurisdictions (i.e., states, the District of Columbia, territories, Tribal governments, and eligible municipalities) and $500 million for Technical Assistance (TA) funding. Treasury awarded $200 million in federal grants to eligible providers for the provision of legal, accounting, and financial advisory services through the TA Grant.

State Small Business Credit Initiative (SSBCI-TA): SSBCI TA is a program managed by the Department of the Treasury that allocates funding to states to create specialized small businesses "access to capital" and "technical assistance ' programs. The program focuses on technical assistance for socially and economically disadvantaged small business owners.

The SSBCI TA Program's primary purpose is to help Socially and Economically Disadvantaged Individual ("SEDI")-owned businesses, Very Small Businesses ("VSB") or small businesses, hereinafter may also be referred to as 'Eligible Beneficiaries', access and apply for funding from a New York State administered SSBCI supported programs or other

federal or other jurisdiction small business program. Funds awarded through the SSBCI TA Program can only be used for legal, financial, and accounting assistance as described in Section II.A below.

B. Designation Period, Contract Amount, and Anticipated Funding

The organizations being awarded an EAC SSBCI TA designation under this grant shall be designated for a period of up to three (3) years, provided the EAC's performance is deemed satisfactory by ESD, in ESD's sole discretion, at each annual evaluation. ESD funding will be in the amount up to $500,000 per Center, distributed in three equal amounts of approximately $166,667 over for the three-year contract period. The contract is anticipated to commence on February 1, 2025 and end on January 31, 2028.

ESD funding is for reimbursable expenses, provided the EAC's performance is deemed satisfactory by ESD, in ESD's sole discretion, and subject to the availability of federal SSBCI TA Program funds.

ESD will enter into an agreement with each Center that will stipulate the manner in which program funds will be disbursed.

C. Request for Application Schedule

ESD seeks applications from New York State Entrepreneurship Assistance Centers ("EAC" or "Eligible Respondents") to provide technical assistance to businesses that meet the purpose and objectives of the SSBCI TA program.

Item	Date
Release of Request for Applications	November 22, 2024
Deadline for Submission of Questions	December 6, 2024
Deadline for ESD to Respond to Questions	December 9, 2024
Submission of Applications	December 20, 2024
Anticipated Announcement of Selections	January 20, 2024
Anticipated Contract Start Date	February 1, 2025

II. PROJECT

A. Program Eligible Services, Objectives, and Goals

Under this RFA, ESD anticipates providing up to four (4) selected EACs with a total of up to $2 million in grant funds to provide technical assistance to small businesses for the purposes described in this Section II. under Eligible TA Services. The total funding of $2 million will be divided among the selected EACs for the three-(3)year contract period.

A successful response to this RFA will demonstrate that the Eligible Respondent has existing programs and services that directly support VSBs and SEDI-owned businesses. ESD will prioritize Applicants that build on existing work with a strong track record of success in providing SEDI-owned businesses and VSBs seeking capital with accounting, legal, and financial technical assistance services via educational training, and 1:1 counseling according to US Treasury Grant Program Guidelines for Technical Assistance

("Program Guidelines") See pages 3-5

i. Project Eligible Services

The following eligible legal, accounting, financial advisory services and other similar services must be provided to SEDI-owned businesses, VSBs, and small businesses throughout the business life cycle.

Legal Services
- Assisting with business formation or adopting corporate governance documents.
- Obtaining needed registrations, licenses, filings, and certifications.
- Advising on, or preparing documents for, the business to enter into contracts.
- Legal services related to the business obtaining capital from investors, such as the development of financial instruments, investment term sheets, purchase agreements, and shareholder rights agreements.
- Legal services related to a transfer of ownership interests in a business, in the case of employee stock ownership plans (ESOPs).

Accounting Services
- Preparing audits, financial statements, or business records.
- Digitizing financial records.
- Advisory services or training regarding accounting practices, recordkeeping, or accounting software.

Financial Advisory Services
- Assisting with the establishment of banking relationships or other financial services.
- Assisting with applications for government small business programs, including preparing financial analyses.
- Identifying sources of credit, capital, grants, and other financing.
- Advising on factors that may impede access to financing for the business.
- Advising on financial management.
- Developing presentations to potential investors, financial models, and business plans.

Through these extensive TA services, new SEDI, VSB, and Small Business entrepreneurs will learn to refine their business concept, complete a business plan, develop financial statements and projections, conduct break-even analysis, learn to develop a credit history, and how to access SSBCI lending programs to help start up their businesses. SEDIs, VSBs, and small businesses that have been in business for less than five years, will be provided with TA services in the areas of cash-flow management, general management skills, new market development, hiring and managing employees, lease/contract agreements, manage growth, and sourcing different credit options to ensure conditions that will support their business expansion.

2. Project Objectives

Responding EACs must be able to meet the following objectives:
- Provide TA services in an impactful and cost-effective way.
- Have strong operational capacity to provide independent TA services, such as one-on-One assistance.
- Implement a marketing and outreach strategy to promote and inform on TA services.
- Outline a workplan to engage and contract SEDIs, VSBs, and Small Businesses in the community to provide specialized consulting and /or training services to meet the

TA service needs of the clients in the native language. all consulting contracts must be reviewed and approved by ESD.

- Submit semi-annual narrative reports on the impacts and activities conducted under the grant, including problems, delays or adverse conditions that materially impair the ability to meet the objectives and actions taken or contemplated, and any assistance needed to resolve the situation; as well as any favorable developments, which enable meeting time schedules and objectives sooner or at cost than anticipated or producing more or different results

3. Project Goals

Responding EACs must be able to achieve the following goals:

- One-on-One Counseling: 1,000 total / 334 annually
- Workshops/Seminars: 150 total / 50 annually
- New Businesses Started: 250 total / 84 annually
- Existing Businesses Expanded: 500 total / 167 annually
- # of Loan Development (assisted with application): 800 total / 267 annually

GOALS	Year 1	Year 2	Year 3	TOTAL
One-on-One Counseling	333	334	333	1,000
Workshops / Seminars	50	50	50	150
New Businesses Started	83	83	84	250
Existing Businesses Expanded	167	167	166	500
Loans Developed (applications)	267	267	266	800

B. Respondent Eligibility Requirements

To be eligible to receive grant proceeds from ESD, an applicant must be in good standing with the State of New York and ESD.

Eligible Respondents shall demonstrate in its plan whether it is likely to predominantly serve SEDI-owned businesses and/or VSBs based on the historical record, geographic reach, policies, or procedures.

An eligible recipient may carry out the TA award itself, make a subaward for a subrecipient to carry out the TA award, or contract with legal, accounting, and financial advisory firms ("Partners") to provide TA services. In accordance with 12 U.S.C. § 5708(e)(1), a subrecipient may be an entity of the eligible recipient (e.g., a state entity), or a legal, accounting, or financial advisory nonprofit or for-profit entity, and a third-party contractor may be a legal, accounting, or financial advisory nonprofit or for-profit entity. Eligible recipients must verify prior to entering into a subaward or contract that the subrecipient or contractor is not suspended, debarred, or otherwise excluded from or ineligible for participation in federal assistance programs or activities pursuant to 31 C.F.R. § 19.300.

C. Grant Funding and Project Timeline

1. Grant Amount and Completion Dates

Eligible EACs selected to support the SSBCI TA Programs will receive grant awards of $500,000 each. Grant awards are as follows:

SSBCI Technical Assistance Grant Program	Award Up To	Expected Completion Date
Year 1	$166,667	January 31, 2025
Year 2	$166,667	January 31, 2026
Year 3	$166,666	January 31, 2027
TOTAL	$500,000	3-Year Award

ESD reserves the right to award grants in amounts greater or less than the above listed figures and/or at a varying schedule depending on the number and quality of applications received and other considerations set forth in this RFA.

2. Eligible and Ineligible Expenses

Eligible activities include but are not limited to:

- Personnel – Salaries and wages of employees who provide direct support or delivery of the TA.
- Fringe Benefits – Allowance and services the eligible recipient provides to its employees as compensation in addition to regular salaries and wages.
- Travel – Can be no more than 5% of budget, must use federal per diem rates.
- Supplies - This includes products or technology to conduct direct consulting/training or webinars. Supplies may not be for administrative or overhead expenses.
- Consulting and Training - Employee or consultant's time and effort to conduct direct financial, legal, and accounting technical assistance to small businesses (one-on-one consulting with small businesses or startups). Consultant's travel time to perform direct technical assistance should be reported as consulting hours. Consultants or contractors must be a SEDI or be a VSB.
- Other additional actives deemed relevant and approved by ESD.

The following limitations apply to this RFP:

- Indirect costs are PROHIBITED
- Expenses must be relevant and justifiable to the project's outcome

3. Budget: Eligible Expenditures

There is no cost-match requirement associated with this grant.

(Download & Complete Exhibit B: Budget and Narrative Justification)

LINE ITEM EXPENSES	Year 1	Year 2	Year 3	TOTAL Cumulative for 3 Years
SALARIES				$
FRINGE BENEFITS				$
TRAVEL				$
SUPPLIES				$
CONSULTANTS				$
OTHER				$
TOTAL down	$166,667	$166,667	$166,666	$500,000

ESD has the right to review all expenses and deny the reimbursement of any expenses that are deemed ineligible.

D. Data Collection & Reporting

Eligible Respondents awarded grant funding will be required to track and record information relevant to the success of this grant, which includes, but is not limited to, US Treasury reporting requirements. Data will be made available to ESD as requested. Data points to be captured and tracked are at the discretion of ESD. (*ref: RFA attachment EXHIBIT C: Technical Assistance Annual Performance Report Template*.)

- Updates on program implementation and favorable or impactful developments;
- Qualitative and/or quantitative data on deployment of deliverables;
- Assessment of effectiveness of marketing and outreach plan; and
- Achievements of workplan.

III. APPLICATION INFORMATION

Please provide a narrative that includes the following information in the following order using the headings listed below. Submitted Proposals are expected to be written clearly. If Applications exceed the page limits and/or include materials not requested by the RFP, ESD will remove the extra pages and/or materials prior to the review. During the review process, Eligible Respondents may be requested to submit additional written documents to answer questions or provide clarification of issues raised during the review process.

ASSEMBLE THE APPLICATION IN THE FOLLOWING ORDER:

A. RFA Project Proposal

1. Cover page
2. Table of Contents
3. Glossary of Terms Used
4. Executive Summary (max 1 page)
5. Proposal (10-page limit)
6. RFA Attachments:
   Exhibit A: EAC SSBCI TA – COVER SHEET
   Exhibit B: EAC SSBCI TA – PROJECT BDUGET & Narrative Justifications

B. RFA Administrative Contractual Forms

Organization's experience and qualification

i. Demonstrate the knowledge, expertise and experience of cultivating and supporting entrepreneurs. Offer an action plan for achieving the program goals.
ii. List strategic partners and how they strengthen the organization.
iii. Describe how the Award Recipient will market SSBCI Equity Programs to underserved SEDI and VSBs. d. Offer an action plan for hitting the TA Program goals.

Project readiness and workplan

i. Demonstrate staff's knowledge, ability and role. Respondent must provide a detailed plan identifying all subcontracting opportunities associated with this project

Services to entrepreneurs and timeline

i. Provide an overall work/action plan.
ii. Provide details about how TA will be developed, marketed, implemented, and tracked.
iii. Provide plans for tracking, measuring, and reporting on outcomes associated with TA and controls the Award Recipient has or will implement to ensure appropriate use of funds.

Use of Funds

i. Justification/rationale for the use of the requested funds.
ii. Provide information on controls that will be in place to be sure funds are used for appropriate and intended purposes.

Ability to Collect and Report Metrics

i. Provide a detailed description of how the Award Recipient will collect beneficiary data, hours of TA provided, type of TA provided, and other metrics required by the United States Treasury and/or ESD.
ii. Provide an overview of the Award Recipient's ability to provide timely annual and quarterly reports including examples of past performance.

IV. REVIEW CRITERIA AND PROCESS

ESD will review individual applications with priorities for geographical distribution across New York State. The respondent must demonstrate an ability to provide TA to VSBs and SEDI-owned businesses throughout NYS. ESD will balance individual application scores.

For the review of eligible applications, ESD has established the following criteria to be applied in accordance with the review process set forth below.

In addition to addressing the review criteria stated below, refer to the application instructions in this RFA for specific items that must also be addressed.

A. Review Criteria

1. Ability to Perform Services (30 points)
   Experience of the Organization and the staff proposed to execute the deliverables. (10 points)
   Past performance providing support to SEDI businesses, and VSB (10 points)
   How well the organization meets the qualification requirements addressed in this RFA. (5 points)
   Access to data and resources to accomplish the deliverables. (5 points)

2. Knowledge of Advanced Industry Sectors (15 points)
   Knowledge, experience and skills of the organization and the staff proposed to undertake activities of the program. (15 points)

3. Project Readiness and Workplan (15 points)
   Overall work/action plan. (5 points)
   Measurable deliverables and completion dates. (10 points)

4. Use of Funds (10 points)
   Quality of the applicant institution's justification/rationale for the use of the requested funds.

5. Proposal Clarity (10 points)
   Quality of proposal's organization, clarity, and adherence to page limitations.

6. References (10 points)
   Quality of references that can substantiate the quality of the Eligible Respondent's work to be considered for an award of this project.

7. Diversity Practices Scoring (10 points)
   ESD's Office of Contractor and Supplier Diversity will score each application for Diversity Practices. Up to 10 points will be awarded based upon the contents of the Diversity Practices Questionnaire Appendix D, submitted by each Respondent to the RFA.

B. Review Process

Reviewers may include ESD staff, staff from federal or other State agencies, and individuals selected from the science, business, and academic communities. The reviewers will adhere to the process described in this section and will apply the review criteria detailed above. ESD may limit the number of proposals a reviewer is required to evaluate. Each proposal will be reviewed and scored by at least three reviewers.

Scoring: Reviewers will independently evaluate and assign a preliminary score to proposals that have been accepted by ESD. The *preliminary scores* for a proposal will be combined to provide an *initial average score* for that proposal.

After the initial average scores are calculated, reviewers will convene as a group to review these preliminary scores and discuss the proposals in accordance with the review criteria. At the conclusion of the discussions, each reviewer will individually provide a *final score* for each proposal based upon the panel's discussions.

In the event that two or more proposals have the same final score, and the score is high enough for the applicants to be considered for funding, the review panel will hold an additional session to review only those affected proposals. The review panel will deliberate until there is a consensus regarding the selection. At times, it may be necessary to conduct interviews in order to determine the selected applicant.

ESD reserves the right to reject any and all applications. ESD may recall this RFA at any time prior to award announcement and may also reject proposals for deficiencies; waive technicalities, irregularities, and omissions; or solicit new proposals. ESD reserves the right to act in accordance with the best interests of the people of New York in its interpretation of this RFA.

Applicants and/or their surrogates are prohibited from contacting any ESD staff to advocate on behalf of a proposal submitted in response to this RFA. Violation of this restriction will disqualify an applicant's proposal from the competition.

V. SUBMISSION OF APPLICATION

- EACs submitting an application are indicating their acceptance of the conditions in this RFA. Submission of applications in a manner other than as described in the in these instructions (e.g., facsimile, hardcopies, emails) will not be accepted. Proposals must be uploaded to the Dropbox prior to the deadline as indicated in the Table of Events/Schedule of Dates.

- The folder should be uploaded to the Dropbox by choosing the following option:

  "Add Files → folders from computer".

  https://www.dropbox.com/request/HGefVPYcMp1DeZjbbTjw

- **Proper format:**
- Please create a folder with: Respondent's name – RFP Title – Date Submitted and use the below link to upload to the Dropbox.
- **Example:**
- Xaragua Int'l Bank , LLC. – SSBCI TA Capital Programs, RFA – 12.20.24

Late proposals will not be considered for award.

VI. QUESTIONS

All questions, comments, requests for clarification or any other communication regarding this RFA must be submitted by email to **SSBCITARFA2024@esd.ny.gov** no later December 6, 2024. Your subject line should state: "[*Name of Applicant] – RFA Inquiry, EAC-SSBCI-TA*

VII. GENERAL PROVISIONS

The issuance of this RFA and the submission of a response by an applicant 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 RFA;
ii. revise any requirement of this RFA;
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 RFA, 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 RFA.

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 RFA will be at the sole cost and expense of the Bidder.

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, 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 an application, each Respondent waives

any and all claims against ESD relating to ESD's retention or use of the Response Information.

VIII. SUBMISSION REQUIREMENTS

Procurement Forms and Requirements

Additional requirements for this RFA are described below. Relevant forms, where required to be submitted, must be executed and included in the submission in the same order as listed below:

1. Conflict of Interest
2. 139 J&K
3. Vendor Responsibility Questionnaire
4. Insurance Requirements
5. Non-Discrimination and Contractor & Supplier Diversity Requirements
6. W-9

1. 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.

2. State Finance Law Sections 139J and 139K 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.
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. 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.

3. 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 RFQ.

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 proposal.

To enroll in and use the Vend-Rep System, see the System Instructions available at www.osc.state.ny.us/vendrep or go directly to the Vend-Rep system online at https://portal.osc.state.ny.us. 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 (http://www.osc.state.ny.us/vendrep/forms_vendor.htm) 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)."

4. Insurance Requirements

The prospective EAC will be expected to show evidence of the following insurance requirements, (at a minimum and to the extent applicable) as listed below:

• Commercial General Liability with limits not less than $2 million per occurrence and $4 million in the aggregate;
• Cyber Liability with a limit of not less than $3 million;
• Professional Liability with a limit of not less than $1 million;
• Fidelity and Employee Dishonesty Insurance with a limit of not less than $5 million;
• In the event that you are using a vehicle in business, Commercial Automobile Insurance with a limit of not less than $2 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 the following policies: Commercial General Liability, Auto Liability. ESD must be named as a loss payee and an additional named insured on the following policies: Fidelity and Employee Dishonesty. All policies above should include a waiver of subrogation in favor of ESD.

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

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of New York State certified minority and women-owned business enterprises (MWBEs) in the performance of ESD contracts. Accordingly, ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to the project. While no specific MWBE participation goals have been set for this project (in view of applicable federal policies concerning utilization of very small businesses (VSBs) and business enterprises owned and controlled by socially and economically disadvantaged (SEDIs), which may have preemptive effect), selected respondents shall be required to acknowledge and adhere to ESD's Non-Discrimination and Equal Employment Opportunity (EEO) policy. Where applicable, ESD may require lenders and other beneficiaries of the program to provide Equal Employment Opportunity (EEO) data in accordance with New York State regulations. (https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf).

Additional information regarding the EEO requirements may be obtained through the ESD's Office of Contractor and Supplier Diversity at OCSD@ESD.NY.GOV.

6. **W-9 Form**
Provide a completed W-9 form (https://www.irs.gov/pub/irs-pdf/fw9.pdf), submit with

Required Forms

- RFA Application

APPENDIX C: Administrative Proposal (Contractual Requirement Forms)

1. **Conflict of Interest Form**

   https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf

2. **139 J&K**

   https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf

3. **Vendor Responsibility Questionnaire**
   https://www.osc.state.ny.us/state-vendors/vendrep/vendor-responsibility-forms

4. **Non-Discrimination and Contractor and Supplier Diversity Forms**
   https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf

5. **W9 Form**
   https://www.irs.gov/pub/irs-pdf/fw9.pdf

6. **ESD IT Security Standard Brief**
   https://esd.ny.gov/sites/default/files/ESD-Security-Standard-Brief.pdf