SUPPLEMENTAL REQUEST FOR QUALIFICATIONS FOR PRE-QUALIFIED REAL ESTATE LEGAL COUNSEL

Issued: April 13, 2026

IMPORTANT NOTICE #1: A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until approval of the Pre-Qualified List. Respondents are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below (refer to: Section IX – ii).

Designated Contacts for this RFQ:
Primary Contact: Shanah Jack
Secondary Contact: Ralph Volcy

All contacts/inquiries shall be made by email to the following address:
LegalCounselRFQ2025@esd.ny.gov

Submissions must be uploaded to the designated Dropbox:
https://www.dropbox.com/request/GBmbzBdL3ozmkssRqCKk

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

IMPORTANT NOTICE #2: This Supplemental Request for Qualifications ("Supplemental RFQ") is being issued to supplement the previous Request for Qualifications ("RFQ") for the same services issued in 2025. ESD is issuing this Supplemental RFQ to seek to pre-qualify additional real estate firms to maintain a robust list of pre-qualified firms. Firms that were pre-qualified in the category of Real Estate and Land Use should not respond to this offering as they remain pre-qualified.

SUBMISSION DEADLINE: On or Before 2:00 PM EST on May 11, 2026
Late Submissions will not be accepted.

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I. INTRODUCTION

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

II. OVERVIEW

The purpose of this Supplemental Request for Qualifications ("RFQ") is to pre-qualify law firms and/or counsel (collectively, "law firms" or "firms") as eligible to represent the New York State Urban Development Corporation d/b/a Empire State Development ("ESD" or "the Corporation"), its subsidiaries and/or affiliates, from time to time, within ESD's maximum rate policy, on real estate and land use matters in connection with economic development projects and related activities across New York State involving various public and private sector parties. Law firms will be eligible for specific retention that may arise over the next few years.

This solicitation seeks to supplement, not replace, the existing list of pre-qualified legal counsel approved in 2025. Note also that in order to be selected for this purpose, every respondent to this Supplemental RFQ ("Respondent") must agree to render services at rates not to exceed those set forth in the maximum compensation rate schedule in Section V ("Pre-Qualification Criteria") of this RFQ. In certain cases where third parties have agreed to reimburse ESD's legal fees, retained law firms may be compensated at higher than those in the maximum rate policy.

In the event that the principal partners and attorneys identified as being responsible for ESD's matters or other key members of a pre-qualified firm's team in a particular area of expertise, leave the prequalified law firm, the pre-qualification will "follow" these key law firm member(s). Similarly, if a pre-qualified firm combines with another firm and such principal partners and other attorneys remain with the newly combined firm, the newly combined firm will be considered to be pre-qualified in that area of expertise.

MWBE & SDVOB Subcontractor Interest
New York State certified Minority- and Women-Owned Businesses (MWBEs) and Service-Disabled Veteran Owned Businesses (SDVOBs) may request that their firm's contact information be included on a list of MWBE and SDVOB firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on ESD's website for reference by the bidding community. A firm requesting inclusion on this list should send contact information and a copy of its NYS MWBE or SDVOB certification to LegalCounselRFQ2025@esd.ny.gov. Nothing prohibits an M/WBE or SDVOB Vendor from proposing as a prime contractor.

III. SCOPE OF WORK

ESD is seeking proposals from law firms, large and small, that have demonstrated expertise in the following areas of law described below (including litigation capabilities):

Real Estate and Land Use – Firms selected would represent ESD on large scale real estate and land use matters, including, but not limited to, the acquisition, sale, leasing, and licensing of real property and all negotiations related thereto; real estate development, including public-private partnerships; real estate financing; real estate taxation and tax exemption matters; national, regional and local land use matters; zoning and other land use controls; building and construction codes; compliance; enforcement of lease provisions; property maintenance; and title disputes. While ESD's real estate and land use matters are predominately transactional or regulatory, experience handling real estate and land use disputes (pre-litigation and litigation) is also desirable.

The engagement volume varies from year to year. ESD reserves the right to assign firms with demonstrated expertise in one area of law to a legal matter that may cross over to subject matter areas typically covered by firms with expertise in other currently existing pre-qualification practice areas.

Firms seeking pre-qualification pursuant to this Supplemental RFQ should have demonstrated experience with real estate and land use matters in and around New York City. Additionally, firms with offices located in and around New York City will be given additional consideration when determining whether a firm should be pre-qualified pursuant to this Supplemental RFQ.

ESD is committed to pre-qualifying a diverse group of New York-based law firms that will provide high-quality services and that are dedicated to diversity. ESD strongly encourages law firms that are certified by New York State as Minority- and Women-Owned Business Enterprises ("MWBE") or Service-Disabled Veteran-Owned Businesses ("SDVOB"), as well as law firms that are not yet certified, but have applied for certification, to submit responses to this RFQ.

Note that inclusion on the pre-qualified legal counsel list does not mean or imply that any firm will, in fact, be selected or engaged to provide legal services to ESD, its subsidiaries or affiliates. Such selection and engagement will take place only when a need for outside legal counsel arises, and the choice of which firm(s) will be engaged to handle a given matter will be at the sole discretion of ESD, its subsidiaries or affiliates. The purpose of the pre-qualified list is to procure legal counsel available for engagement on short notice.

IV. RFQ PROCESS OVERVIEW

A broad overview of the RFQ process and timetable, and the requirements for inquiries and the submission of proposals, can be found in this section.

A. Key Events and Dates

It is anticipated that the Notice of Award will be based on the following schedule:

Release of RFQ	April 13, 2026
Deadline for Submission of Questions	April 27, 2026
Deadline for ESD to Respond to Questions	On or about May 1, 2026
Submission of Proposals (date and time)	May 11, 2026 by 2:00 PM EST
Evaluations and Interviews (if deemed necessary)	TBD
Announcement of Successful Respondents	TBD

Please note that ESD reserves the right to change any of the dates announced in this RFQ. In the event of a change, such modifications will be posted on ESD's website at https://esd.ny.gov/requests-proposals. **Firms shall be solely responsible for periodically checking the website throughout the RFQ process for such changes or updates, and no individualized notices shall be provided.**

B. Questions

Questions or requests for clarification regarding the RFQ should be submitted via email, citing the RFQ page and section in accordance with the schedule in this section, to the dedicated email address set forth on the first page of this RFQ. Questions will not be accepted orally, and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted with this RFQ on both the Contract Reporter and ESD Website.

Please be advised that ESD accepted and responded to questions as part of the original RFQ in 2025. Those questions and responses are set forth here:

https://esd.ny.gov/sites/default/files/media/document/Addendum-I-Q%26AMatrix-Pre-qualifiedLegalCounsel-RFQ.pdf

Vendors should avail themselves of this information in making their responses and before submitting questions pursuant to this Section.

C. Preliminary Review

The selection process will begin with a preliminary review and evaluation of each written proposal to determine if the submission contains all required information specified in the RFQ, in the form and content required in Section VI ("Submission of Proposals"). Proposals that do not pass the preliminary review stage will be rejected and will not undergo further evaluation.

D. Evaluation Committee and Criteria for Pre-Qualification

Proposals passing the preliminary review stage will undergo an evaluation process conducted by members of ESD's legal team ("Evaluation Committee"). Respondents may be requested by ESD

to clarify the contents of their proposals. Other than to provide such information as may be requested by ESD, no Proposer will be allowed to alter its proposal or add information after the Deadline for Submission of Proposals. The Evaluation Committee will then determine if the proposal meets the requirements of Section V ("Pre-Qualification Criteria").

E. Interviews (if necessary)

ESD reserves the right to determine in its sole discretion whether interviews with one or more of the proposing Firms will be necessary. The purpose of the interview is to assist ESD in better understanding the Respondent's ability to provide the required services. The proposed lead attorney, as well as any other key personnel who would be responsible for providing legal services, should participate in the interview. The purpose of the interview is to impart to the Evaluation Committee an understanding of how specific legal services will be furnished. The interview will be evaluated on the basis of whether it substantiates the information provided by the Respondent in its written response to this RFQ and any other information requested by the Evaluation Committee prior to the interview.

F. Evaluation of Proposals

The Evaluation Committee will evaluate each proposal based upon whether it meets the criteria set forth in Section V ("Pre-Qualification Criteria") of this RFQ.

G. Pre-Qualification of Firms

ESD, at its sole discretion, but in accordance with the provisions of this RFQ, will determine which proposals best satisfy its requirements.

H. Board Approval

Any Firm selected by the Evaluation Committee to be on the Prequalified List must be approved by the Board of Directors of ESD.

V. PRE-QUALIFICATION CRITERIA

For a firm to be deemed pre-qualified, it must meet all of the following required qualifications and must be approved as pre-qualified by the ESD Board of Directors.

Each firm seeking to be pre-qualified must demonstrate the following:

1. Firm must have submitted a complete, organized response, including the Submission Checklist and Certifications set forth in Appendix A.

2. Firm must agree to be bound by ESD's maximum rate structure as set forth below. Although proposed fees will be considered, ESD reserves the right to negotiate a lower or

different fee structure with any law firm(s) selected. The billing rate to be paid for any engagement of legal services will be as set forth in a retainer agreement.

Please be advised that, at present, the maximum rates paid by ESD are the lesser of the following hourly rates or the firm's billing rates normally charged to its governmental clients:

Partner/Of Counsel	$800.00 per hour
Senior Associate[1]	$700.00 per hour
Mid-level Associate[2]	$625.00 per hour
Junior Associate[3]	$525.00 per hour
Law Clerk[4]	$405.00 per hour
Legal Assistant/Paralegal	$190.00 per hour

This maximum rate structure is subject to change from time to time by action of the ESD Directors.

In certain cases where third parties have agreed to reimburse ESD's legal fees, retained law firms may be compensated at higher rates than set forth above.

3. Firm must have at least one (1) office in the State of New York.

4. Any attorneys proposed to complete work on behalf of ESD must be licensed and admitted to practice law in the State of New York, or if an attorney is proposed to complete work under the "Federal Practice" category above, must be admitted to practice law in the relevant federal court jurisdictions, including those located within the State of New York.

5. Firm must agree to be bound by ESD's standard contractual terms and conditions (Schedule A), as set forth in Section VIII below.

6. Firm has demonstrated experience and/or past performance in providing the work identified.

7. At least one member of the Firm's proposed team has significant relevant experience (minimum of five years).

8. Firm can demonstrate appropriate staffing levels and capacity to provide the required resources to handle engagements required by ESD.

[1] Senior associates have at least four years of experience.
[2] Mid-level associates have three or four years of experience.
[3] Junior associates have passed the bar exam but have less than three years of experience.
[4] Law clerks are law student interns for first year associates who have yet to pass the bar exam.

VI. SUBMISSION OF QUALIFICATIONS

Respondents should submit a proposal which clearly and concisely provides all the requested information. Emphasis should be concentrated on conformance to the RFQ instructions and requirements, as well as completeness and clarity in the proposal response. Respondents are advised to thoroughly read and follow all instructions contained in this RFQ. Proposals that do not comply with these instructions or do not meet the full intent of all the requirements of this RFQ may be deemed to not meet the pre-qualification requirements or may be deemed non-responsive.

i. Technical Proposal

Below is a listing of the technical information to be provided by the Respondent. No information is required beyond what is specifically requested. ESD requests that all Technical Proposals be organized and identified to match the specific information requested below:

A. Table of Contents
B. Firm Practice Area, Experience and Qualifications
C. Background Information
D. Staff Experience and Qualifications
E. MWBE/SDVOB Status or Partnering
F. References

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

A. Table of Contents

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

B. Firm Practice Area, Experience and Qualifications

In this section of the Technical Proposal, Respondents should (a) provide a description of the law firm's relevant experience in that area; (b) include a brief description of representative transactions in that area; and (c) specify the law firm's role for each transaction identified.

In addition, Respondents should indicate whether services have been provided previously to ESD, any of ESD's subsidiaries or affiliates, or any other New York State, local or federal entities. If so, Respondents should list and describe any and all work performed including (a) the date(s) such work was performed, (b) the entity for which such work was performed, and (c) the area of expertise for the work performed.

C. Background Information

In this section, Respondents should briefly describe the firm's background, history, services, number of attorneys in the law firm, etc. Firm descriptions/brochures, and organizational charts should be provided. There is no page limit, but brevity is strongly encouraged.

D. Staff Experience and Qualifications

In this section of the Technical Proposal, Respondents should demonstrate that the proposed staff have the knowledge and ability to perform the services described in this RFQ. Respondents should provide the names and resumes of the principal partners and other attorneys who would be responsible for ESD's matters, and a description of the relevant qualifications and experience of each attorney.

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

E. MWBE/SDVOB Status or Partnering

As set forth above, ESD is committed to pre-qualifying a diverse group of New York-based law firms that will provide high-quality services and that are dedicated to diversity. ESD strongly encourages law firms that are certified by New York State as Minority- and Women-Owned Business Enterprises ("MWBE") or Service-Disabled Veteran-Owned Businesses ("SDVOB"), as well as law firms that are not yet certified, but have applied for certification, to submit responses to this RFQ.

If the law firm is a State-certified MWBE or SDVOB firm, provide documentation evidencing certification. Law firms that are not certified, but have applied for certification, should provide evidence of filing, including the filing date. Respondents should also provide a description of the instances, if any, in which the law firm has worked with MWBE and SDVOB partnering or mentoring arrangements with either a law firm selected by ESD or one of your choosing; and, if the latter, provide a list of co-counsel MWBE and SDVOB law firms with which the law firm is prepared to partner. Such statement should include an explanation of how the law firm would suggest structuring such an arrangement and allocating services and fees between the participating law firms.

In addition, Respondents should include a statement of the law firm's willingness, if any, to engage in future MWBE and SDVOB partnering or mentoring arrangements with either a law firm selected by ESD or one of your choosing; and, if the latter, provide a list of co-counsel MWBE and SDVOB law firms with which the law firm is prepared to partner. Such statement should include an explanation of how the law firm would suggest structuring such an arrangement and allocating services and fees between the participating law firms.

F. References

In this section, Respondents should provide at least three (3) client references for whom your firm has performed similar work to that required in this RFQ. For each client, describe the project's date, and services performed, and provide the name, address, and telephone number for a person at client's firm familiar with such work.

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

ii. Administrative Submission

Section VIII of this RFQ states standard requirements that must be included in every contract entered into with ESD. The successful Respondent must agree to abide by these requirements and provide any information requested by ESD in connection with these requirements**.** Accordingly, Respondents should complete and submit the items listed below, in the order in which they are listed. Failure to submit any of the requirements in Section VIII together with the Submission Checklist and Certifications document set forth in Exhibit A may result in the rejection of a Respondent's proposal.

Additional information about these items, and ESD's procurement requirements, can be found in Section VIII of this RFQ ("Contractual Requirements").

Two-Part Submission:

Firms submitting a proposal are indicating their acceptance of the conditions in this RFQ. Submission of qualification documents in a manner other than as described in these instructions (e.g., facsimile, hardcopies, emails) will not be accepted. When submitting, Respondents must comply with the following:

Upload the main folder to the specific Dropbox:

https://www.dropbox.com/request/GBmbzBdL3ozmkssRqCKk

Proper format: Please create a folder with company name – RFQ title – date of Submission. example: ABCD Inc.– Pre-Qualified Real Estate Legal Counsel Supplemental – 040826

Included in that main folder should be two sub-folders, one for the Administrative Submission and one for the Technical Proposal. The main folder should be uploaded to the Dropbox by choosing the following option: "Add Files à folders from computer". All documents in the folders should be properly labeled.

PLEASE NOTE: Late submissions will not be considered for pre-qualification.

VII. GENERAL PROVISIONS

The issuance of this RFQ and the submission of a response by a Respondent 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 RFQ;
ii. revise any requirement of this RFQ;
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 Respondent;
vii. communicate with any Respondent to correct and/or clarify responses that do not conform to the instructions contained herein;
viii. cancel, or reissue in whole or in part, this RFQ, 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 RFQ.

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 RFQ will be at the sole cost and expense of the Respondent.

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

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

Required Approvals

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

Performance

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

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

Additional Services Requested

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

Contractor Staff

Contractor staff assigned to work on this project shall be subject to approval by the Corporation. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. The Contractor should notify the Corporation of any proposed changes in staff immediately. The Corporation has an absolute right and discretion to approve or disapprove any proposed changes in staff. The Corporation, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld.

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

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

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

VIII. CONTRACTUAL REQUIREMENTS

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

i. Conflicts of Interest

Respondent must attest it has read, understood and will comply with the following provisions https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf. ESD shall have the right to disqualify any respondent to this RFQ or terminate any contract entered into as a result of this RFQ 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 RFQ. If a conflict does or might exist, Respondent must describe how it would eliminate or prevent it.

C. **Disclosure of Ethics Investigations:** Respondent must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any ongoing investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

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

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFQ. These Procurement Requirements: (1) govern permissible communications between potential Respondents and ESD or other involved governmental entities with respect to this RFQ; (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 RFQ. Compliance with the Procurement Requirements requires that all communications regarding this RFQ, 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 Respondents of the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law and periodic updating of such forms during the term of any contract resulting from this RFQ.
Respondents 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/sites/default/files/media/document/SF-Law139-JK-2025.pdf

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by Respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a Respondent is found to have knowingly and willfully violated the State Finance Law provisions, that Respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent 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 RFQ.

This is not a complete presentation of the provisions of the Procurement Requirements. All potential Respondents are solely responsible for full compliance with the Procurement

Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

iii. Vendor Responsibility Questionnaire

All Respondents to this RFQ 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 RFQ, 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 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 electronic receipt or paper questionnaire with your submission.

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 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 (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)."

In addition, please see link to EO-192: https://ogs.ny.gov/system/files/documents/2021/09/eo-192-vendor-integrity_0.pdf

iv. Iran Divestment Act

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

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

The list in question is maintained by the Office of General Services. For further information and to view this list please go to: Entities determined to be non-responsive bidders/offerers pursuant to The New York State Iran Divestment Act of 2012

v. Executive Order 16

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

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

The required certification can be found at: https://esd.ny.gov/sites/default/files/EO16-certification.pdf and must be signed and included in all Submissions.

vi. Executive Order 177

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

The required certification for can be found at: https://esd.ny.gov/sites/default/files/EO-177-Certification.pdf and must be signed and included in all Submissions.

vii. Compliance with State Finance Law Section 139-m

Section 139-m of the New York State Finance Law requires that all vendors bidding or otherwise submitting a proposal for a competitive procurement must implement and attest (via written certification) to a Gender-Based Violence and the Workplace policy. This policy must be in place at the time for bid or proposal submission set forth in Section IV above for a bid or submission to be considered.

The model policy published by the New York State Office for the Prevention of Domestic Violence can be found at: opdv-gbv-workplace-bidder-model-policy_2025.08.28_0.pdf
The required Gender-Based Violence and the Workplace Certification can be found at: https://esd.ny.gov/sites/default/files/media/document/GBVandtheWorkplacePolicyAttestationTemplate-103125.pdf and must be signed and included with all bids, proposals or other submissions.

viii. Non-Discrimination and Contractor & Supplier Diversity Requirements

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

Pursuant to New York State Executive Law Article 15-A and Parts 140-147 of Title 5 of the New York Codes, Rules and Regulations, ESD is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of ESD contracts.

Business Participation Opportunities for MWBEs

ESD has an agency-wide overall goal of 30% for MWBE participation, 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 (based on the current availability of MBEs and WBEs). For contracts entered into as a result of this solicitation, ESD may establish a goal for MWBE participation based on the scope of work and project description identified in the RFQ response. Such contracts may set forth additional requirements that will encourage business participation opportunities for MWBEs. A contractor ("Contractor") on any contract resulting from this procurement ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFQ, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFQ pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: https://ny.newnycontracts.com. For guidance on how ESD will evaluate a Contractor's "good faith efforts," refer to 5 NYCRR § 142.8.

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 broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

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 RFQ, such finding constitutes a breach of contract and ESD may withhold payment as liquidated damages.

Such liquidated damages shall be calculated up to 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 proposal, 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 proposal. 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 twenty (20) 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 proposal.

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

d) If a Respondent fails to submit an MWBE Utilization Plan;
d) If a Respondent fails to submit a written remedy to a notice of deficiency;

d) 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 proposal in response to this solicitation, the Respondent agrees with all of the terms and conditions **SCHEDULE B - PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES**. The Respondent is required to ensure that it and any subcontractors performing work on the contract shall 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 proposal.

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-REV-7-24-2025.xlsx
Form OCSD-3: https://esd.ny.gov/sites/default/files/media/document/OCSD-3-Workforce%20Utilization-Report-100224.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-OCSD-6-Compliance-Report-021925.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 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, Respondents are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

A. ESD has an agency-wide overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For contracts entered into as a result of this solicitation, ESD may establish a goal for SDVOB participation based on the scope of work and project description identified in the RFQ response. For purposes of providing meaningful participation by SDVOBs, the Respondent should reference the directory of New York State Certified SDVOBs found at: https://online.ogs.ny.gov/SDVOB/search. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, the 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 "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), Respondents are required to submit a completed SDVOB Utilization Plan on Form OCSD-4.

B. The Utilization Plan shall list the SDVOBs that the Respondent intends to use to perform the Contract, a description of the work that the Respondent 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 Respondent 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 or proposals, 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 Respondent/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.

D. If a notice of deficiency is issued, Respondent/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 Respondent/Contractor and direct the Respondent/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 proposal.

E. ESD may disqualify a Respondent's proposal as being non-responsive under the following circumstances:

(a) If a Respondent fails to submit an SDVOB 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.

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, Respondent/Contractor shall speak to the Designated Contacts at ESD for guidance.

B. In accordance with 9 NYCRR § 252.2(m), a Respondent/Contractor that is able to document good faith efforts to meet the goal requirements may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting documentation. A Respondent may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If the documentation included with the Respondent'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 Respondents/Contractors' solicitation was not selected.

(3) Dates of any pre-proposal, 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.

ix. Encouraging the Use of NYS Businesses in Contract Performance Form

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Respondents for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. In order for ESD to assess the use of New York State businesses in each submission, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses in Contract Performance form, accessible here: https://esd.ny.gov/sites/default/files/media/document/USEOFNYSBUSINESSES-2025.pdf

x. Certification under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over $300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this solicitation must include in their submissions a properly completed Form ST-220-CA (http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf), or an affidavit

(https://esd.ny.gov/sites/default/files/media/document/STL5A-Affidavit-2025.pdf) that the Respondent is not required to be registered with the State Department of Taxation and Finance. Also, in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

xi. Schedule A

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with Schedule A. A sample can be found at: https://esd.ny.gov/sites/default/files/media/document/ScheduleA-law-firms-December2021.pdf

Respondents should still review these terms, which are standard in all ESD contracts, and raise any concerns prior to submission, as successful Respondents will be required to accept these terms prior to contract execution.

xii. Project Sunlight

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

xiii. Insurance Requirements

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

- 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;

All policies above should include a waiver of subrogation in favor of ESD.

xiv. W-9 Form

Provide a completed W-9 form (https://www.irs.gov/pub/irs-pdf/fw9.pdf) with submission.