



Empire State Development

Request for Proposals Planning & Implementation Support Services Empire State Development – Western New York Region

Issued: November 5, 2024

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

Designated Contacts for this Procurement:

Primary Contact: Julia Borukhov

Secondary Contact: Jordan Kaplan

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

WNYPlanningAndImplementationRFP@esd.ny.gov

Proposals must be uploaded to the designated Dropbox:

<https://www.dropbox.com/request/r1BWychtj9uOKkeQrvn3>

This RFP is posted on the Empire State Development website:

<https://esd.ny.gov/doing-business-ny/requests-proposals>

Submission Deadline: On or Before 4:00PM EST on December 6, 2024

Late submission will not be taken into consideration

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I. INTRODUCTION

The mission of the New York State Urban Development Corporation, doing business as Empire State Development (“ESD” or the “Corporation”), 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 undertaking real estate and infrastructure projects targeted at urban revitalization and smart growth/placemaking, industry-based workforce development, and innovation/entrepreneurship and through the efficient use of loans, grants, tax credits, marketing and other forms of assistance.

II. OVERVIEW

ESD is issuing this Request for Proposals (RFP) to solicit organizations or companies specializing in strategic planning, economic development, and project/program management (AKA, a “Consultant”) for proposals to provide planning and implementation support services to the Western New York Regional Office (ESD-WNY), based in Buffalo, New York. The Consultant services to be provided are primarily related to the work of the ESD-WNY office and in ESD-WNY’s role as convenor/administrator of the WNY Regional Economic Development Council (WNY REDC). The work may also involve selected instances of coordinating with two WNY-based subsidiaries of ESD, the Erie Canal Harbor Development Corporation (ECHDC), which focuses upon revitalization of Buffalo’s Lake Erie and Buffalo River waterfront and the USA Niagara Development Corporation (USAN), which focuses on revitalization and enhancement of tourism and community development activities in Niagara Falls, NY.

The intent of these Consultant services is to develop a deep partnership with ESD-WNY leadership, project management, and planning teams to essentially act as an extension of the Corporation’s WNY staff resources, to best ensure that economic development activities conducted here realize a significant beneficial impact and return on New York State’s investment in the regional economy.

i. Background

Since 2011, ESD has evolved an economic development approach in WNY, driven by a paradigm pioneered by ESD-WNY and now largely adopted statewide – ESD’s “four pillars” of sustainable economic development. Applying these pillars includes shaping projects to: 1) Promote **Placemaking & Smart Growth**, to ensure sound development of our communities in a manner that avoids sprawl and its associated detriments and to celebrate our region’s unique resources; 2) Undertake programs that **Prepare our Workforce** to fill the jobs to maintain our regional companies’ needs, with a particular focus on creating expanded opportunities in our most underserved communities; 3) Invest in **Innovation & Entrepreneurship**, including both helping existing companies upgrade their internal processes and to foster start-ups and small business, and 4) Apply each of the previous three enabling pillars across **Tradable Sectors** that present the greatest promise for growth.

Beginning with the establishment of the WNY REDC, through major investments under the “Buffalo Billion”, to most recently, a three-city initiative under the “Regional Revitalization Partnership” (RRP), ESD-WNY continues to apply these four pillars in various initiatives, all requiring planning and implementation support from the Consultant. These initiatives are discussed in the following sections.

WNY Regional Economic Development Council

In 2011, New York State established 10 REDCs to develop long-term strategic plans for economic growth in their respective regions. Each REDC is a public-private partnership made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations. At the time of their establishment, each REDC was tasked with developing an economic development strategic plan, with the best plans receiving \$100 million for projects and programs in their regions. The WNY REDC plan, *A Strategy for Prosperity*—which covered Allegany, Cattaraugus, Chautauqua, Erie and Niagara counties—was one of the original \$100 million winners and served as the basis for evaluation and selection of a variety of WNY projects to receive annual ESD funding under the state **Consolidated Funding Application (CFA) Process**.

While the WNY REDC has completed annual progress reports since 2011, in November 2023 the strategic plan underwent a full update, with re-established regional priorities that build off the region’s unique assets and geographic location. These priorities continue to reflect WNY’s rich history as a center of manufacturing and pioneer of innovation, important community and cultural assets, core urban centers and quaint villages, and world-class research and innovation resources. Over the past ten+ years, by building on these and burgeoning strengths such as growing population segments, new entrepreneurs and a strong Tech workforce, WNY made tremendous investments in places, people and industries critical to a sustainable economic future. Key industries in tradable sectors (which in WNY include the Advanced Manufacturing, Health/Life Sciences, Tourism, and Tech sectors) are advanced through investments in placemaking to create accessible job centers like the emerging **Northland Corridor** on Buffalo’s East Side and the **Buffalo Niagara Medical Campus**, and through sustainable infrastructure and livable communities throughout WNY. In workforce development, the updated strategic plan sets forth a holistic approach through the organization of a **WNY Manufacturing and Tech Workforce Coalition** to address the needs of Manufacturing and Tech employers, while expanding opportunity into good-paying career pathways for more residents. In innovation, the updated plan calls for continuing to invest in support networks that attract entrepreneurs, foster the latest technology, and ensure a healthy and diverse business climate—through organizations such as **Buffalo Manufacturing Works, University at Buffalo’s Business & Entrepreneur Partnerships (BEP), and Launch NY**. The 2023 WNY Regional Strategic Plan can be viewed at: <https://regionalcouncils.ny.gov/western-new-york>.

In addition to its strategic plan development and implementation, the WNY REDC is also responsible for accepting, evaluating and recommending applications for designating municipalities to engage in the **Downtown Revitalization Initiative (DRI)** program. Upon award of a DRI grant, a municipality coordinates with the NYS Department of State (DOS), with involvement of ESD.

Buffalo Regional Innovation Cluster (AKA “Buffalo Billion” Initiative)

In January of 2012, the State of New York pledged to invest \$1 billion for the economic redevelopment of Buffalo and the WNY Region. Officially called the Buffalo Regional Innovation Cluster, but more commonly referred to as the “Buffalo Billion,” this investment has made clear that New York is committed to the future of Buffalo and WNY to move forward in an unprecedented manor. ESD and the WNY REDC were tasked to lead the development and implementation of a *Buffalo Billion Investment Strategy* (see <https://regional-institute.buffalo.edu/work/buffalo-billion/>), which engaged multiple metropolitan development experts, and was shaped by hundreds of regional stakeholders through public workshops, one-on-one interviews, surveys and focus groups. As part of the 2017-2018 State budget, the state funded a second round of Buffalo Billion funding (Buffalo Billion II), totaling \$500 million, and a corresponding plan for investment endorsed by the WNY REDC. While a number of the larger initiatives under the two phases of Buffalo Billion funding are now completed and/or fully established, such as the Riverbend High-Tech Manufacturing Innovation Hub (which now houses a Tesla Gigafactory), the 43North start-up competition, and the initial development of properties along the Northland Corridor (e.g., the establishment of the Northland Workforce Training Center and Buffalo Manufacturing Works in that corridor), several programs created under Buffalo Billion remain and require implementation support, including:

- The “**Better Buffalo Fund**” (BBF), a loan and grant program that aims to help create vibrant, mixed-use, high-density neighborhoods, focusing on providing financial support (on a competitive basis) for infill and rehabilitation projects that encourage density and growth along transit corridors and in neighborhood commercial districts.
(see: <https://esd.ny.gov/better-buffalo-fund-program#overview>)
- The “**WNY Workforce Development Challenge Fund**”, a program for grant assistance to not-for-profit organization throughout the five counties of WNY to establish or expand community-based workforce training in target tradable sectors (i.e., advanced manufacturing, health and life sciences, tech, tourism, etc.). The program is intended to be flexible and responsive to industry and encourages applicants to provide new and creative proposals that are tailored to neighborhood and population needs, such as employing techniques first tested at the Northland Workforce Training Center such as providing “wrap-around” services, career coaching, soft skills development, and partnerships with local companies to place clients after training. Most recently, the fund is being used to support activities in the aforementioned **WNY Manufacturing and Tech Workforce Coalition**.
- The “**Buffalo East Side Corridors Economic Development Fund**”, a multi-faceted strategy focusing on four north-south commercial corridors in East Buffalo – Michigan Avenue, Jefferson Avenue, Fillmore Avenue, and Bailey Avenue (see below).

Buffalo East Side Corridors Economic Development Fund

As part of Buffalo Billion II placemaking strategy, \$65 million was dedicated to revitalization efforts on the City of Buffalo’s East Side through investments in stabilizing neighborhoods and strengthening four north-south commercial corridors by promoting mixed use, walkable districts; improving regionally significant historical and natural assets; expanding opportunities for workforce

connections; and supporting small business and entrepreneurship. A planning effort to engage the community to define the specific components of this effort was conducted in 2018-19 and involved: establishment of goals; analysis of economic and land use data, and past investments; and in-depth stakeholder involvement. During this process, it became clear that an East Side effort could not be limited to a series of public investments in efforts like streetscape improvements and to facilitate infill real estate projects by outside developers. While propelling the East Side upward will indeed require some level of investment from the outside, it also requires investments in human capital and a bottom-up approach to better equip residents, businesses, and property owners already on the East Side with the tools and ability to invest in their own assets, start or expand businesses, and grow wealth, all to the benefit of these neighborhoods, now and into the future.

The strategy includes a combination of individual placemaking projects, coupled with small business and property grant programs and infrastructure investments within target areas on each of the four corridors, including the following:

- Rehabilitation and enhancement of various historic and/or cultural assets of the East Side to serve as anchors for the community, including revitalization of the **Broadway Market**, enhancement and coordination of the **Michigan Street African American Heritage Corridor**, further development of the **Northland Corridor**, and restoration of iconic East Side features such as **Martin Luther King, Jr. (MLK) Park** and the **Buffalo Central Terminal**;
- Three small business/community development programs (each run through four community-based organizations designated as local program administrators [LPAs]) including a **Commercial District Program** to assist small businesses with façade/capital improvements, a **Commercial Building Stabilization Program** to assist building owners with near-term stabilization of historic buildings to prevent catastrophic failures (pending plans for full rehabilitation/reuse), and a funding program for first-time developers graduating out of an established **Community-Based Real Estate Development Training Program**;
- Traditional direct funding of **private mixed-use infill projects** in key locations along each of the corridors; and
- Targeted infrastructure investments to supplement **City of Buffalo streetscape projects** in each of the corridors aligning with the above efforts.

The effort has been further supported through \$8.4 million in pooled funds from WNY foundations and banks—collectively called “East Side Avenues”—that provides capacity building and organizational support to local community based organizations that are involved in implementing components of ESD’s capital funding. A full discussion of this effort is available at:

<https://esd.ny.gov/sites/default/files/Buffalo-East-Side-Corridor-Fund.pdf>.

Regional Revitalization Partnership (RRP)

Developed through a collaborative effort, the RRP is a \$300 million state, private/philanthropic, and municipal co-investment in three interconnected geographic areas: Buffalo, Niagara Falls and Rochester. This community-driven strategy seeks to build local wealth and empower residents using

a model that drives economic development through government and philanthropic partnerships. ESD-WNY is responsible only for the Buffalo and Niagara Falls components¹ of RRP as follows:

- On the East Side of Buffalo, a combined \$180 million RRP investment (\$130 million NYS, \$41 philanthropic, \$9 million municipal) that scales up from New York State’s initial \$65 million Buffalo East Side Corridors Economic Development Fund and is focused on the expansion of projects/programs that were determined to require significantly more funding to be fully realized. This includes broader programs of restoration at Buffalo Central Terminal, Broadway Market, and the Michigan Street African American Heritage Corridor, restoration of historic greenhouses at MLK Park, operational support of the Northland Workforce Training Center, and follow-on funding for Commercial Corridors and Small Business Development.
- In Niagara Falls, a combined \$40 million (\$20 million NYS, \$15 philanthropic, \$5 million municipal) is being invested under RRP under a **Niagara Falls Strategic Economic Development Fund** (see: <https://esd.ny.gov/sites/default/files/media/document/NiagaraFallsEconDevFund-FINAL-Spring2022.pdf>). Whereas most prior state investments have focused solely on the City’s tourism industry near Niagara Falls State Park, this initiative seeks to strategically invest in commercial corridors to fully engage the city’s residents and neighborhoods in the emerging revitalization. The fund is focusing on efforts in food entrepreneurship anchored around the city’s historic **City Market and Pine Avenue**; projects to restore, highlight and promote various heritage facilities such as **Oakwood Cemetery** and **Niagara Arts and Cultural Center (NACC)**; and a small business assistance program in targeted commercial districts.

A full discussion of the RRP can be found at:

https://regional-institute.buffalo.edu/wp-content/uploads/sites/155/2022/05/2022-RegionalStrategy_May27.pdf

ii. Anticipated Term & Budget

The term of the contract shall be for four years beginning in February 2025, with the sole option of ESD to extend the contract for up to two, one-year extensions based upon consultant performance, ESD needs, and availability of funds.

ESD has budgeted **\$350,000 annually for the four-year base term** of the contract pursuant to this RFP, or a total of \$1.4 million. While ESD reserves the right to accept proposals that exceed this amount, preference will be given to proposals that provide “best value” to ESD in accordance with these limits.

iii. 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

¹ ESD’s Finger Lakes office is overseeing the Rochester component of the RRP, and associated planning support work would not be included under this contract.

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 WNYPlanningAndImplementationRFP@esd.ny.gov. Nothing prohibits an M/WBE Vendor from proposing as a prime contractor.

III. SCOPE OF WORK

i. Skills Required

In order to provide the services across all tasks under this scope of work, it is anticipated that the Consultant will comprise staff and expertise in the following skill areas or disciplines:

- Professional planning specialties, including strategic planning, economic development planning, applied public policy, and city/regional planning;
- Program development and administration;
- Regional socioeconomic and economic base data analyses, including geographic information systems (GIS) analyses and mapping using standardized regional/national databases²;
- Community engagement support; and
- Communications and reporting skills, including effective presentation across various media and formats (e.g., written reports, graphic design, slide/video presentations, etc.).

ii. Overall Services to be Provided

Across all specific projects/programs/initiatives, it is anticipated that the Consultant will provide the following support services:

Strategic planning and problem solving

- Support ESD-WNY with research and analyses to guide decision-making, implementation and operation.
- Work to anticipate and resolve challenges/barriers that may occur and support ESD-WNY with advice and assistance in implementation to solve/address any problems incurred.

Project management

- Work with ESD-WNY to ensure that the appropriate infrastructure, staff and other supports are in place for delivery of programs, including development/identification of organizational structures, leadership, and staffing to implement projects and programs.
- Provide support to ensure funding is in place for initiatives, including analyzing budget proposals, preparing budget requests, and identifying and applying for additional funding sources.

² Note: GIS analyses would not involve development of any new database or ESD-specific systems; rather it would be limited to manipulation/mapping of existing ArcGIS®-based sources including but not limited to municipal land uses and parcel information, U.S. Census tract data, and other published economic sources.

Public/internal engagement, marketing and communications

- Design and facilitate reports, public forums and presentations when applicable to keep members of the ESD staff, leadership, agency/community stakeholders, and the public updated on progress and specific initiatives as they are implemented.
- Provide assistance with ongoing multi-media communications throughout the year to ensure that the public and stakeholders are aware of progress (website, video, slide, social media, etc.).
- Participate and support branding/messaging, marketing and communications activities associated with ESD-WNY initiatives.

Tracking, monitoring and reporting

- Manage ongoing performance reporting approach to ensure efficacy, impact and responsible use of NYS resources.
- Provide analyses of data to measure progress, and recommend changes, if necessary.
- Assist ESD-WNY in reporting objective information, initiative progress, and advice in the forms of presentations and report materials to the WNY REDC, ESD leadership, elected officials, etc.

iii. Anticipated Project/Program Tasks

Specific efforts and initiatives that the Consultant will support would include, but not be limited to the following efforts/tasks:

Task 1: WNY REDC Support

The Consultant shall be responsible for assisting ESD-WNY in all of its administration and support of the WNY REDC. This would include:

- Periodic briefings and reports to the WNY REDC on topical areas related to the 2023 Strategic Plan Update or other on-going ESD-WNY initiatives.
- Preparation of annual WNY REDC progress reports, including draft any additions to the existing four-pillar economic development strategy, adapting to the needs of a post-pandemic economy and the changes the region. The progress reports will also update readers on the overall health of the economy and impacts of state-funded projects present an accurate and objective picture of the region's economic landscape along with key performance measures and indicators critical to guiding decision making and policy action.
- Assistance with the processing, review, scoring and processing of applications under the CFA program, DRI, and other grant programs administered by the WNY REDC.

Task 2: East Side Projects/Program Implementation Support

The Consultant will be required to help ESD-WNY in the support/coordination of ongoing activities among multi-phase capital projects and capacity-building efforts including but not limited to:

- Michigan Street African American Heritage Corridor. Guiding the Corridor Commission through an anticipated \$24 million multi-project capital program under RRP, growing out of its adopted strategic action plan (see: <https://www.michiganstreetbuffalo.org/future-vision>), as well as to

facilitate the development of the Commission's organizational capacity with \$6 million RRP support from philanthropy, both to undertake programming, educational, and community programs, and to support anchor organizations in advancing their respective projects under the strategic action plan.

- Buffalo Central Terminal. Assisting ESD to facilitate the Central Terminal Restoration Corp. (CRTC) through major capital improvements and programming with \$54 million capital program (see <https://buffalocentralterminal.org/our-master-plan/>), as well as \$6 million in organizational capacity building funded by philanthropy under RRP, ensuring that these are properly staged and coordinated with the CRTC's selected preferred development team for adaptive reuse of the complex.
- Broadway Market. Support the transition of the Market from a City of Buffalo operation to a one run by a new not-for-profit corporation and help facilitate the architectural design process for an ~\$40 rehab arising out of its new master plan to build, manage, grow and fulfill the vision for the Market as an international, entrepreneurial food hub.
- MLK Park. Work with Buffalo Olmsted Parks Conservancy (which is responsible for the Park under agreement with the City of Buffalo) to implement a \$5 million capital rehabilitation of the Vaux Greenhouse complex in MLK Park to support public access and a future horticultural training program, as well as assisting the organization with fundraising, program planning and community engagement around revitalized community greenhouses in the Park.
- Small business/community development programs. Continue to build and evolve the small business/community development ecosystem on Buffalo's East Side through collaboration and strategic implementation. This includes helping to administer the three aforementioned East Side programs (i.e., Commercial District Program, Commercial Building Stabilization Program, Community-Based Real Estate Development Training Program Fund) and to assist ESD-WNY in developing a programmatic approach, guidelines, and administration of a future "East Side Building Fund" that would meet the objectives of all of these programs in a combined and more flexible manner.

Task 3: Better Buffalo Fund Support

The Consultant will be required to support ESD in advancing a final round of BBF in a manner that best facilitates infill and rehab development in key locations, and complements other assistance programs, particularly on the East Side of Buffalo. The Consultant shall work with ESD to re-evaluate and refine guidelines for the program and standard terms, conditions, and thresholds for loans and grants associated with the BBF Program.

Upon refinement and re-issuance of the BBF guidelines, the Consultant shall be responsible for supporting ESD-WNY in rollout, solicitation, application evaluation, and project selection. This would include drafting announcements, facilitation of a Letter of Interest pre-application and full application processes, staging applicant interviews, and facilitating selection committee sessions.

Task 4: Niagara Falls Strategic Economic Development Fund Support

The Consultant shall be responsible for facilitating and support of all ongoing activities associated with the Niagara Falls Strategic Economic Development Fund, first initiated in 2023, in close coordination with the ESD subsidiary USAN. These efforts would include:

- Niagara Falls City Market. Facilitating next steps in the development and implementation of actions to revitalize the Market (see <https://www.nfcitymarket.org/>), including advancing the first stage of capital improvements to design and formalizing the structure for a new not-for-profit operating entity for the Market.
- Niagara Falls Small Business Property Improvement Program. Facilitating the administration of a recently-established grant program for storefront and capital improvements on Pine Avenue, Main Street, and in the Downtown district, run by NFC Corporation (the City of Niagara Falls' not-for-profit local development corporation).
- Asset Investments. Helping to shepherd and support the implementation of a series of direct capital projects, including restoration of the theater at the Niagara Arts & Cultural Center, rehab of key historic buildings at Oakwood Cemetery to support broader visitation/education programs, interpretation of the historic portage around Niagara Falls, and a series of heritage gateway features in Downtown Niagara Falls.

Task 5: WNY Manufacturing and Tech Workforce Coalition Support

Funded in part through the WNY Workforce Development Challenge Fund and other state, federal, and philanthropic sources, the Coalition is working to facilitate a shared vision for growing and retaining a regional talent pipeline to meet the needs of WNY Manufacturing and Tech employers. This holistic approach is designed to strengthen the entire ecosystem; scale up industry-driven training programs that connect job seekers with employers, career paths and supportive services; expand best practice models; and build a strong future workforce pipeline. The Coalition supports and strengthens 12 members representing non-profit trainers, community colleges, universities, apprenticeship training, workforce development organizations and intermediaries, industry, and community-based organizations; and 10 interconnected projects that will build the Manufacturing and Tech workforce in WNY.

The Consultant shall be responsible to fully support ESD and the President of the Northland Workforce Training Center (the selected chair of the Coalition) to help provide overall leadership and coordination across the Coalition membership; facilitate region-wide communications; leverage additional resources; and foster coordination across employers, trainers, community partners and talent pools.

Task 6: Overall Strategic Planning/Communications Support

At the request of the ESD-WNY Regional Director, the Consultant shall make itself available for planning and communications support for strategic efforts as these emerge periodically over each program year. Such efforts may include, but would not be limited to:

- Research, mapping, data analysis, and periodic preparation of “white papers” or policy briefs to outline a particular issue of ESD focus or potential project/program, with the objective of internal review within ESD;
- Developing PowerPoint® files and talking points for public presentations on ongoing programs and initiatives; and
- Planning, graphic, and communications support for messaging program/project objectives in various types of public media, in coordination with ESD Communications staff.

Task 7: Progress Meetings/Coordination

The Consultant shall be responsible for coordinating regular progress meetings (assume virtual) to outline schedule milestones, issues, and decisions points necessary to implements steps in projects and programs. This shall include:

- Weekly meetings with ESD-WNY leadership on the overall WNY portfolio of efforts;
- Periodic meetings (assume bi-weekly for fee estimate purposes) for individual project efforts requiring a greater level of oversight:
 - East Side Small Business/Community Development Programs
 - Broadway Market Revitalization
 - Niagara Falls City Market & Niagara Falls Small Business Property Improvement Program
 - WNY Manufacturing and Tech Workforce Coalition
- Monthly meetings for other ESD-WNY Regional initiatives/projects.

The Consultant shall be responsible for developing all meeting agenda and documenting outcomes/action items.

IV. SCHEDULE OF DATES

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

Release of RFP	November 5, 2024
Deadline for Submission of Questions	November 15, 2024
Deadline for ESD to Respond to Questions	November 20, 2024
Submission of Proposals (date and time)	December 6, 2024, by 4:00 PM EST
Interviews (if necessary)	December 11-13, 2024
Announcement of Successful Proposals	December 27, 2024
Anticipated Contract Start Date	February 2025

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

V. SELECTION CRITERIA

Proposals received will be evaluated and scored/ranked using a “best value” selection process, which looks at a variety of evaluation factors that includes but is not limited to the expertise of the team, the understanding of the work, and the overall approach to providing the services, as well as proposed fee and hours to be provided shaped by the aforementioned annual budget. Specifically, the Selection Committee will evaluate proposal against criteria that, in ESD’s sole and absolute discretion, are in its best interests. The criteria listed below are of significant concern:

i. Project Understanding (15 points)

- Demonstrated understanding of ESD-WNY programs or comparable state economic development programs.
- A project/program approach that indicates a clear understanding of the issues associated with planning, administration and implementation of the subject ESD-WNY efforts under this contract.

ii. Experience of the Team (25 points)

- Extent that the Prime Consultant and Sub-Consultant organizations/firms have successfully undertaken planning/economic development support efforts of a similar in size and scope.
- Extent that the established team possesses the training and skill sets to perform the duties outlined in the Scope of Work.
- Extent that the proposed project manager and task leaders have a broad experience in the areas of expertise and a strong portfolio of economic development efforts in WNY, particularly within the geographic areas outlined in the Scope of Work (City of Buffalo, City of Niagara Falls, and other WNY municipalities).

iii. Quality of the Approach to Providing Planning Support Services (30 points)

- Approach to the work that includes all necessary services, tasks, and work products discussed in this RFP.
- Demonstration of the nuances associated with the delivery of such planning support services and creativity in the most efficient methods of supporting ESD-WNY given the prescribed budget.

**iv. Proposed Fee
(20 points)**

- Completeness of the proposed fee estimate – providing a full fee estimate with hours by various labor categories for each task and other associated non-salary reimbursable costs with the use of reasonable and attributable assumptions.
- Projected scale/level of effort for each of the required services within the prescribed annual budget.
- Overall cost of the effort.

**v. Diversity Practices
(10 points)**

- ESD’s Office of Contractor and Supplier Diversity will score each application for Diversity practices using the attached Diversity Practices Scoring Questionnaire (included as Appendix A). Up to 10 points will be awarded based upon the contents of the questionnaire submitted by each Respondent to the RFP.

VI. SUBMISSION OF PROPOSALS

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

i. Technical Proposal

Below is a listing of the technical information to be provided by the Respondents. No information is required beyond what is specifically requested. The Corporation requests that all Technical Proposals be organized in sections to match the specific information requested below:

- Table of Contents
- Firm Experience and Qualifications
- Staff Experience and Qualifications
- Approach to Providing Planning Support Services
- Estimated Fee
- Diversity Practices

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

A. Table of Contents

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

B. Firm Experience and Qualifications

In this section of the Technical Proposal, Bidders should demonstrate relevant experience by providing the following:

1. Proposed Team

Include profiles of the proposed Prime Consultants and any Sub-Consultants, as applicable.

2. Relevant Past Projects

Respondents shall provide no more than ten, one-page experience sheets (Note: additional materials will not be considered) summarizing the best examples of current and/or past projects undertaken by the Consultant and/or members of the team that are most similar and relevant to the process outlined in this RFP. These project sheet shall include:

- Information with respect to location, size, uses, approximate contract value, and dates of engagement.
- Graphic material/photographs illustrating efforts.
- Contact information (i.e., name, phone, and email) for applicable references for each representative contract.

3. Project Team Organization

- Include an organizational chart identifying members of the Consultant team (Prime and any Sub-Consultants) as well as their respective administrative, management and professional responsibilities.
- If any, note any prior working relationships among the Prime Consultant and Sub-Consultant firms.

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

C. Staff Experience and Qualifications

In this section of the Technical Proposal, Bidders should demonstrate that the staff proposed have the knowledge and ability to perform the services described in this RFP. Individual resumes should be submitted for key team members that will be engaged under the contract (no more than one [1] page in length for each staff member), stating professional and educational background and experience relevant to this effort.

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

D. Project Understanding & Approach

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

1. Based upon information in this RFP and from individual research, set forth your team's overall understanding of the effort, the key objectives, challenges, and overarching issues associated with ESD-WNY initiatives and associated planning support needs.
2. Based upon your preliminary understanding of the overall context of ESD-WNY initiatives, present your Team's overall approach to the providing the various required services and tasks outlined in this RFP.

E. Estimated Fee³

The proposal must include a fee estimate, anticipated to be on a time-and-materials basis with an annual not-to-exceed amount of \$350,000, that includes:

1. A detailed labor budget in tabular format for all Consultant services delineated by task as outlined in the Scope of Work, including the estimated hours and fully burdened⁴ hourly rates by labor category for each task, all summing up to estimated labor costs by task and labor category of each staff member that may be required to provide the services, and ultimately summing up to total estimated labor costs; and
2. A list of anticipated reimbursable costs and the rates to be charged for each without markup.

³ Although the proposed fee will be taken into account, ESD reserves the right to negotiate a lower or different fee structure with any Consultant that is selected.

⁴ "Fully burdened hourly rates" would include direct salary costs, overhead, fringe, and profit, as applicable to your organization or company.

F. Diversity Practices

Respondents should complete the Diversity Practices Scoring Questionnaire (included as Appendix A).

ii. Administrative Proposal

Schedule A of this RFP states standard requirements that must be included in every contract entered into with the Corporation. The successful Bidder must agree to abide by these requirements and provide any information requested by the Corporation in connection with these requirements. Accordingly, Bidders should complete and submit the items listed below, in the order in which they are listed. Failure to submit any of the requirements below may result in the rejection of a Bidder's proposal.

- i. <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>, submit with proposal
- ii. https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf submit with proposal
- iii. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online (and include copy of submitted form with proposal)
- iv. <https://esd.ny.gov/sites/default/files/IranDivestmentActLanguage-corp-info.pdf>, submit with proposal
- v. <https://esd.ny.gov/sites/default/files/EO16-certification.pdf>
- vi. <https://esd.ny.gov/sites/default/files/EO-177-Certification.pdf>
- vii. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
 - o [OCSD-1 - MWBE and SDVOB Participation / EEO Policy Statement](#)
 - o [OCSD-2 - Staffing Plan](#)
 - o [OCSD-4 - MWBE and SDVOB Utilization Plan](#)
- viii. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
- ix. Certification under State Tax Law Section 5-a [220-CA](#) or https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf, submit with proposal
- x. [W-9 Form](#), submit with proposal

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

Submission of a Complete Two-Part Proposal

Firms submitting a proposal are indicating their acceptance of the conditions in this RFP. Submission of proposals in a manner other than as described in these instructions (e.g., facsimile, hardcopies) will not be accepted. When submitting each proposal, Bidders must comply with the following: Upload the main folder to the specific Dropbox:

<https://www.dropbox.com/request/r1BWychth9uOKkeQrvn3>

Proper format: Please create a folder with company name – RFP title – date of Submission.

example: **Consultant Firm, Inc-WNY Planning and Implementation Support, RFP. – 12.06.2024**

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

Please Note: Late proposals will not be considered for award.

VII. QUESTIONS

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

VIII. GENERAL PROVISIONS

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

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

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

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

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

Required Approvals

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

Performance

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

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

Additional Services Requested

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

Contractor Staff

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

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

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

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

IX. CONTRACTUAL REQUIREMENTS

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

i. Conflicts of Interest

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

- A. Gifts and Offers of Employment:** Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this procurement, offer to any employee, member or director of ESD, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise,

or in any other form, under circumstances in which it could reasonably be inferred that the offer was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director. Respondent may not make any offers of employment or discuss the possibility of such offers with any employee, member or director of ESD who is involved in this procurement and/or resulting contract negotiation within at least 30 days from the time that the employee's involvement in this matter closed.

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

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

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

Bidders must submit the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law as part of

their submittal. Copies of these forms are available at:

https://cdn.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:

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

. All potential Bidders are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

iii. Vendor Responsibility Questionnaire

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

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

To enroll in and use the Vend-Rep System, see the System Instructions available at

<https://www.osc.ny.gov/state-vendors/vendrep/vendrep-system> 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 itservicedesk@osc.ny.gov.

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

In addition, please see link to EO-192: <https://www.governor.ny.gov/news/no-192-executive-order-imposing-continuing-vendor-integrity-requirements-state-contracts>

iv. Iran Divestment Act

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

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

The list in question is maintained by the Office of General Services. For further information and to view this list please go to: <https://ogs.ny.gov/system/files/documents/2024/10/iran-divestment-act-list-of-entities-10.15.24.pdf>

v. Executive Order 16

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

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

The required certification for can be found at:

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

vi. Executive Order 177

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

The required certification for can be found at:

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

vii. Non-Discrimination and Contractor & Supplier Diversity Requirements

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

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

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD hereby establishes an overall goal of 30 percent for MWBE participation. 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 RFP, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFP 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.

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

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

By submitting a bid or 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 bid or 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 30 days of receipt.

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

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

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

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

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

Equal Employment Opportunity Requirements

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

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

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 subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

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

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

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

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

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

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

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

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

Diversity Practices

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Bidders is practical, feasible, and appropriate. Accordingly, Bidders shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire (See Appendix A).

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

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

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to 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 hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor 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, 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), Bidders are required to submit a completed SDVOB Utilization Plan on Form OCSD-4.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.
- C. ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. ESD may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If ESD determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

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

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

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

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

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

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

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by ESD with certified SDVOBs whom ESD determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.

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

Monthly SDVOB Contractor Compliance Report

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

Breach of Contract and Damages

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

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

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

ix. Certification under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Bidders to this solicitation must include in their Proposals a properly completed Form ST-220-CA (http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf), or an affidavit (https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf) that the Respondent is not required to be registered with the State Department of Taxation and Finance. Also, in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

x. Schedule A

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

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

xi. Project Sunlight

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

xii. Insurance Requirements

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

- Commercial General Liability of \$2 million per occurrence and \$4 million in the aggregate;
- In the event that you are using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$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;
- Professional Liability insurance with a limit of not less than \$1 million;

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

xiii. W-9 Form

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