



Empire State Development

**Request for Proposals and Statement of
Qualifications to Serve Empire State Development as
Audit Services ("RFP")**

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**REQUEST FOR PROPOSALS AND STATEMENT OF
QUALIFICATIONS FOR
AUDIT SERVICES**

I. Introduction

New York State Urban Development Corporation d/b/a Empire State Development, New York Job Development Authority, Harlem Community Development Corporation, New York Convention Center Development Corporation and New York Empowerment Zone Corporation (collectively the Companies), hereby request a proposal from your firm for separately audited consolidated/combined financial statements for the above corporations and subsidiaries as well as a consolidated Federal Single Audit for the fiscal years ending March 31, 2016, 2017, 2018, with the option to extend the contract for two (2) one (1) year terms.

In order for these Companies to adhere to Public Authorities Law established by the Office of the State Comptroller, as well as to meet certain requirements in Bond Resolutions, the audited financial statements must be completed no later than June 10 of each year.

From time to time, additional subsidiary corporations may require separately audited financial statements, pricing of which will be negotiated with the contracted firm. In addition, management consulting and other professional services may be required by the Companies throughout the contract term.

II. History and Introduction to the Companies

Empire State Development

New York State Urban Development Corporation, which together with its subsidiaries does business as Empire State Development (ESD), is a corporate governmental agency of the State of New York (the State), constituting a political subdivision and a public benefit corporation. Accordingly, for financial reporting purposes, ESD's consolidated financial statements are combined as a component unit enterprise fund in the State's annual financial report. Created by legislation in 1968, ESD has broad powers which can be utilized for civic, industrial or commercial development purposes. ESD is engaged in various activities for the State, three of which are highlighted below:

1) Economic Development and Job Creation

ESD works in partnership with the public and private sectors to create an environment that spurs innovation and economic development while enhancing New York State's competitive advantage as the world capital for many industries, ranging from finance and media to technology and agriculture. ESD's mission 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. To support the Corporation in carrying out

its mission, the State Legislature has provided the Corporation with various statutory powers, including the power to issue bonds, offer tax benefits to developers, condemn real property and waive compliance where appropriate, with certain local codes and laws. The financial assistance is provided primarily through State appropriated funds received by the Corporation and State supported bonds issued by the Corporation which are disbursed to projects. Federal funding is also received through various programs to provide assistance to small business, businesses who have sustained losses as a result of natural disasters and other purposes that spur economic development. The economic development activities of ESD also include special projects, often of considerable magnitude, which it carries out through various consolidated subsidiaries including Harlem Community Development Corporation, New York Convention Center Development Corporation, Moynihan Station Development Corporation, Erie Canal Harbor Development, New York Empowerment Zone Corporation and other subsidiaries with development activities throughout the State.

2) State Special Projects

ESD issues revenue bonds, the proceeds of which are used primarily for construction and renovation of State correctional facilities, to refinance State office facilities or construct technology facilities for universities located in New York, to finance youth facilities, to finance the acquisition of certain lands, to construct/improve various civic and community facilities and for economic development and preservation of natural resources located throughout the State. Under related agreements, ESD receives periodic State appropriations in amounts sufficient to pay the debt service on the bonds.

3) Marketing

ESD markets New York, not only as a great place to do business, but as the perfect vacation destination. The Division of Marketing, Advertising and Tourism produces creative marketing strategies and programs that promote New York State as the ideal get-away spot. The Division of Motion Picture and Television Development markets the State to the film industry, providing production and business support for projects and companies while serving as a liaison between the industry, State agencies and regional governments.

Federal Single Audit

In addition to the annual audits of ESD and its subsidiaries, a Federal Single Audit is also required in accordance with the U.S. Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. An audit as such is important to relate the expenditures of federal awards to the basic consolidated financial statements and other additional procedures.

New York Job Development Authority

New York Job Development Authority (the Authority), doing business as Empire State Development, is a public benefit corporation organized and existing under the laws of the State of New York (the State). The Authority is a component unit of the State and, as such, its combined financial statements are included in the State's general purpose financial statements. The Authority's mission is to spur job growth and capital investment in the State by using authority granted to it and by leveraging State-guaranteed bonds to support low interest loans to manufacturers and other targeted industries throughout New York State.

The principal activities of the Authority are providing business and industrial loans and the guarantee of loans made by banking organizations. All such loans and loan guarantees are made to businesses with operations in the State, and are provided for acquisition of real estate or machinery and equipment. The Authority generally requires security for loans and loan guarantees with the underlying assets and other available collateral.

The Authority finances these activities through the issuance of State guaranteed bonds and notes limited by the Constitution of the State and applicable legislation to an aggregate principal amount of \$900,000,000 outstanding at any time. To date, enabling legislation allows an aggregate principal amount of \$750,000,000 to be outstanding at any time. The Authority has the power to create local development corporations under Section 1804 of the New York Job Development Authority Act and Section 1411 of the New York Not-for-Profit Corporation law.

Harlem Community Development Corporation

Harlem Community Development Corporation (HCDC) is reported as a consolidated subsidiary in the consolidated financial statements of New York State Urban Development Corporation d/b/a Empire State Development (ESD). Both ESD and HCDC have been determined to be component units of the State of New York (the State) and are included in the State's financial statements as component units for financial reporting purposes. Substantially all program and management/general expenses incurred by HCDC are funded by support from and advances administered by ESD and income derived from its federally-funded Weatherization Program.

The mission of HCDC is to formulate and implement a comprehensive program to revitalize the Harlem Community. This includes, but is not limited to, the development and rehabilitation of residential, commercial and industrial properties, the administration of grants under a weatherization program and a tax credit program for the development and financing of low-income housing.

HCDC has targeted projects that contribute to the redevelopment of vacant or underutilized commercial and retail property with the goal of attracting new businesses, retaining and growing existing businesses and creating employment opportunities for Harlem residents. Projects are developed in partnership with ESD, State and City agencies, multiple not-for-profits, private businesses and community-based organizations.

New York Convention Center Development Corporation

New York Convention Center Development Corporation (CCDC) is reported as a consolidated subsidiary in the consolidated financial statements of New York State Urban Development Corporation d/b/a Empire State Development (ESD). Both ESD and CCDC have been determined to be component units of the State of New York (the State) and are included in the State's financial statements as component units for financial reporting purposes.

The Senate and Assembly of the State approved legislation, the 1979 Act, authorizing a first instance appropriation from the State's Capital Construction Fund (subsequently repaid from bond proceeds) to ESD for the acquisition and initial planning of a convention and exhibition center in the City of New York (the Facility). The 1979 Act also established CCDC as a subsidiary of ESD, to plan, design, develop and construct the Facility and amended the Public Authorities Law to empower the Triborough Bridge and Tunnel Authority to finance the cost of the Facility through issuance of negotiable bonds and notes. The Facility was completed and began operations in 1986 as the Jacob K. Javits Convention Center (the Javits Center).

In 2005, the State legislature passed legislation related to the future expansion of the Javits Center. The legislation provided for issuance of bonds sufficient to fund the planned expansion and renovation and established a hotel unit fee of \$1.50 a day, imposed on certain hotel room rentals in all five boroughs of the City, to provide revenue to cover debt payments on the bonds.

New York Empowerment Zone Corporation

The New York Empowerment Zone Corporation (NYEZ) was incorporated in 1996 as a subsidiary of New York State Urban Development Corporation d/b/a Empire State Development (ESD). NYEZ is reported as a subsidiary in ESD's consolidated financial statements. Both ESD and NYEZ have been determined to be component units of the State of New York (the State) and are included in the State's financial statements as component units for statewide financial reporting purposes.

NYEZ's role is to administer a Memorandum of Understanding among the U.S. Department of Housing and Urban Development, the State and the City of New York, which provides for grants from all three parties to approved projects within the New

York Empowerment Zone. The grants are restricted for economic development and community revitalization.

III. Scope of Services

The Companies require separate examination of their consolidated/combined financial statements for the purpose of expressing an opinion as to whether the statements present fairly, in all material respects, the financial position, results of operations and cash flows for the fiscal year ending March 31 in accordance with accounting principles generally accepted in the United States of America (USA). Audit examinations should be made in accordance with auditing standards generally accepted in the USA and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

In addition, for each of the fiscal years covered by the contract, the Companies require, in general, the following Independent Auditors' reports:

- Independent Auditors' Report (report on consolidated/combined financial statements);
- Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards;
- Independent Auditors' Report on Investment Compliance
- Any additional reports required, or that may become required, by Government Auditing Standards during the contract term

The financial statements and the above listed reports must be completed and formally presented to the Companies no later than June 10 of each contract year so that the statements/reports can be presented to the requisite Audit Committees and Boards of Directors for statutorily-required filing with designated parties by June 30.

IV. Content of Proposal

Please letter and number your responses exactly as the questions are presented herein. Interested firms are required to submit proposals which contain the following information:

- A. Background, Experience and Personnel
 - 1. A history of the firm's auditing experience for ESD or similar public entities.
 - 2. A proposed audit plan outlining audit methodology and tasks to be

performed in completing your audit(s) and review(s).

3. A description of the audit team, including resumes of the partners and associates who would be assigned and regularly work on ESD audits. Indicate the percentage of time each of the foregoing individuals spends on public audits. Identify the partner in charge and, for this partner, provide three client references relating to engagements similar to the type described in this RFP. Also include the percentage of time this partner will dedicate to the audit(s).
4. If you have not worked with ESD in the last five years, please provide a list of three audit engagements for a New York State agency/authority or other public entity. Include the entity name, the name of a contact person who is able to provide a reference, a description of the type of engagement, the scope of the engagement, and the amount and basis for the firm's fee calculation (for example, contract rate or hourly rate).
5. The firm's financial statements for no less than the last three fiscal years.
6. The number of full time employees in New York State in calendar years 2013, 2014 and at June 30, 2015.
7. Any other information which you believe would make your representation of the Companies superior to that of other recognized audit firms.

B. Fees and Costs

Please briefly provide the following:

1. The total proposed annual audit fee, including an annual cap, itemized for each of the Companies as listed in this document, for each year mentioned.
2. The normal hourly rate of each partner and associate whose resume is provided and the hourly rate you propose to charge (as utilized to calculate the fee above).
3. A schedule of all expenses which you anticipate will result in any additional charge and the rate of each. Please specify at what rate professional services or consulting outside of the audit will be billed.
4. Any other fees or charges to ESD.

C. Conflicts of Interest

Please submit a statement describing whether the representation of ESD would create any potential conflict of interest, or appearance of impropriety, relating to other clients/customers of the respondent or former officers and employees of ESD. Indicate what procedures will be followed to detect, notify ESD of, and resolve any conflicts.

Identify any past, pending or threatened litigation or administrative or state ethics board or similar body proceedings to which you or any of your partners are a party and which would either materially impair your ability to perform the services enumerated herein, or, if decided in an adverse manner, materially adversely affect the financial condition of your firm.

Any firm selected pursuant to this RFP will be required to advise ESD of any developments during the term of this appointment with respect to existing and/or any new civil or criminal legal investigations, pertinent litigation and/or regulatory action involving the firm or its employees which could impact the firm's role or ability to perform the audit services.

D. Supporting Documentation

All requested Minority and Women-Owned Business Provisions documentation and Procurement and Tax Law documentation must be submitted.

V. Criteria for Selection

In evaluating proposals submitted pursuant to this request, ESD places high value on the following factors, not necessarily in order of importance:

1. Experience as audit firm, including assigned audit team, on behalf of ESD, New York State agencies or public entities similar to ESD (15%).
2. Qualifications of proposed partners and associates (15%).
3. Demonstrated commitment of time and resources to ESD, New York State agencies or other public firms similar to ESD (15%).
4. Number, complexity and size of engagements handled by the respondent as audit firm for ESD, New York State agencies or public entities similar to ESD (15%).
5. Stability of staff and availability to and facility for working with ESD finance staff (10%).

6. Anticipated cost of services and willingness to work with ESD to minimize costs (10%).
7. Financial strength and stability of firm (10%).
8. Overall organization, completeness, and quality of proposal, including cohesiveness, conciseness, clarity of response and demonstrated understanding of ESD (10%).

VI. Submission of RFP Responses

Responses should be submitted in at least 12 point type with standard margins printed on 8½ X 11 inch pages. While there is no specific page limit, brevity, wherever practical, is strongly encouraged and will be considered in evaluating responses. Background information, such as company financial statements, firm descriptions, resumes and organizational charts may be included separately.

ESD reserves the option to hold oral interviews as part of the selection process. In the event interviews are held, responding firms will be notified accordingly. The selected firm will be notified by letter no later than November 2015 so that the firm may begin audit field work as soon as necessary to successfully complete the audits.

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

1. amend, modify or withdraw this RFP;
2. revise any requirement of this RFP;
3. require supplemental statements or information from any responsible party;
4. accept or reject any or all responses hereto;
5. extend the deadline for submission of responses hereto;
6. negotiate potential contract terms with any respondent to this RFP;
7. engage in discussions with any respondent to this RFP to correct and/or clarify responses which do not conform to the instructions contained herein;
8. cancel, or reissue, in whole or in part, this RFP, if ESD determines, at its sole discretion, that it is in its best interest to do so; and
9. 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 responding firm.

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, all Proposals may be discussed at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

A respondent accepts all provisions of this RFP by submitting a proposal and is responsible for the accuracy of its submission.

ESD will post on its website (<http://esd.ny.gov/CorporateInformation/RFPs.html>) the electronic version of this RFP and all changes, additions, or deletions thereto. Firms should frequently check ESD's website regarding this RFP. All questions should be submitted via email by Monday, August 24, 2015 citing the particular proposal section and paragraph number. Questions should be sent to esdauditrfp@esd.ny.gov. All questions must be submitted to ESD only by email to the address specified above. ESD will post all of its responses to substantive questions only on ESD's website (<http://esd.ny.gov/CorporateInformation/RFPs.html>) by Friday, August 28, 2015.

Eight (8) copies and one (1) electronic copy on CD or Zip drive of your response marked "2015 Audit Services RFP" with appropriate contact information must be received no later than 3:00 p.m. on Tuesday, September 15, 2015 in a sealed package to:

**Edgar Camacho
Manager Contract Audit & Administration
Contract Administration
Empire State Development
633 Third Avenue, 35th Floor
New York, NY 10017
Attn: 2015 Audit Services RFP**

ESD will not reimburse for any expenses incurred in connection with this RFP including the costs of preparing the response, providing any additional information and/or travel expenses relating to an interview. All material submitted in response to this RFP will become the sole property of ESD. ESD expressly reserves the right to utilize any and all ideas submitted in the proposals received unless covered by legal patent or proprietary rights.

No contact related to this solicitation with ESD Board members, staff or consultants, other than as specified in this RFP, will be allowed during the pendency of this RFP. Any such contact by a Respondent will be grounds for disqualification.

VII. Procurement Forms and Requirements

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

1. State Finance Law §§139-j and 139-k forms
2. Vendor Responsibility Questionnaire
3. Iran Divestment Act Statement
4. Non-Discrimination and Contractor & Supplier Diversity Requirements
5. Encouraging the Use of NYS Businesses in Contract Performance Form
6. Certification under State Tax Law Section 5-a
7. Schedule A (for review only—no separate form requirement)
8. Project Sunlight (for review only—no separate form requirement)
9. Insurance Requirements

1. 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 respondents 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 below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD web site under “RFPs/RFQs”); and periodic updating of such forms during the term of any contract resulting from this RFP.

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

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective 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 prospective respondent is found to have

knowingly and willfully violated the State Finance Law provisions, that prospective 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 esdauditrfp@esd.ny.gov. This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at: http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf. All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

2. Vendor Responsibility Questionnaire

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

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

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

3. 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: <http://www.ogs.ny.gov/about/regs/ida.asp>

4. Non-Discrimination and Contractor & Supplier Diversity Requirements

It is the policy of the State of New York and Empire State Development (ESD) to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that Minority and Women-owned Business Enterprises (MWBEs), Minority Group Members and Women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds. MWBE firms currently certified by New York State's Department of Economic Development are encouraged to respond to this RFP.

ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to this solicitation and any resulting contract(s) and amendments. The Respondent shall be required to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8) to achieve an **overall MWBE Participation Goal of 30%** related to the total value of ESD's funding. The aforementioned goal shall include *Minority Business Enterprise ("MBE") Participation and Women-Owned Business Enterprise ("WBE") participation totaling 15% and 15%, respectively.*

A complete copy of each Respondent's Equal Employment Opportunity Policy Statement (FORM OCSD-1), Staffing Plan (FORM OCSD-2) of the anticipated workforce to be utilized and the M/WBE Utilization Plan (FORM OCSD-3) shall be provided as part of the response to this RFP.

Copies of each form may be accessed using the links below:

FORM OCSD-1

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf

FORM OCSD-2

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf

FORM OCSD-3

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_3MWBEUtilizationPlan.pdf

In the event that the above links are unavailable or inactive, the forms may also be requested from the Office of Contractor & Supplier Diversity at OCSD@ESD.NY.GOV.

For purposes of providing meaningful participation by MWBEs on the project and achieving the project goals established herein, Respondent should reference the directory of New York State Certified MWBEs found at the following internet address:

<https://ny.newnycontracts.com/>

The Respondent may use the aforementioned directory of Certified MWBEs to identify firms that it proposes to utilize. OCSD is also available to assist you in identifying New York State certified MWBEs that can provide goods and services in connection with this contract. If you require listings of certified MWBE firms or have other questions relating to the requirements herein, please contact OCSD with your inquiries and comments. Be sure to include all relevant contact information for your company and details pertaining to this RFP.

General inquiries or questions relating to aforementioned policies, MWBE participation and the goals specified herein may be addressed to OCSD at OCSD@ESD.NY.GOV.

5. 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/proposers 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>.

6. 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 Proposals a properly completed Form ST-220-CA (http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf), or an affidavit (http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf) 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.

7. 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," which can be found at:

http://esd.ny.gov/CorporateInformation/Data/ScheduleA_ConditionsApplicabletoCorporationAgreementsForMaterialServices_RevisedAug2014.pdf

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

8. 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 for real property (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, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

9. Insurance Requirements

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

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

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