



REQUEST FOR PROPOSALS (RFP) Bio-Accelerator Program Services

Issued: **May 10, 2019**
Submission Deadline: **June 10, 2019 by 3:00 PM EST**

Designated Contacts for this Procurement:
Primary Contact: John F. Discolo
Secondary Contact: Ralph Volcy

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

Table of Contents

I. INVITATION TO SUBMIT PROPOSALS3

II. DEFINITIONS3

III. BACKGROUND4

IV. PROGRAM OVERVIEW & SCOPE OF WORK4

V. SCHEDULE OF DATES7

VI. SUBMISSION OF PROPOSALS7

VII. SELECTION CRITERIA.....8

VIII. QUESTIONS.....11

IX. GENERAL PROVISIONS.....11

X. PROCUREMENT FORMS AND REQUIREMENTS12

I. INVITATION TO SUBMIT PROPOSALS

Empire State Development (“ESD”), New York’s chief economic development agency, is seeking to contract with a proven bio-accelerator company to develop a New York State Bio-Accelerator Program based in New York City. The Program will be administered over a duration of at least five years with three additional years of required reporting to ESD. While the physical location for the Program will be in New York City, the Program will be expected to connect industry stakeholders throughout New York State. The goal of the Program is to help develop and facilitate a commercial life science sector in New York State and provide investment capital to early-stage life science companies and business enterprises.

II. DEFINITIONS

- **Awardee:** The firm submitting a proposal under this RFP that is selected to administer the Bio-Accelerator Program.
- **Bio-Accelerator Program:** The Bio-Accelerator Program supports Program Eligible Enterprises seeking investment capital. The Program will provide mentorship, educational programming, lab space, and investment capital, typically culminating in a public pitch event or demo day for participating business enterprises. A minimum of 2 Cohorts per year will complete the Program.
- **Cohort:** A class of Program Eligible Enterprises that is selected to participate in the Bio-Accelerator Program curriculum of fixed duration.
- **Life Science Industry Cluster:** An ecosystem that enables life science businesses to thrive, grounded in: significant life science technological and scientific innovation; life science venture capital funding; infrastructure to support lab space; a strong workforce; and networks of serial entrepreneurs, mentors, investors, and corporate partners.
- **Network:** The Bio-Accelerator Program’s mentorship community, including top-tier investors, serial entrepreneurs, corporate partners, and academic partners.
- **Pre-Accelerator Program:** A Pre-Accelerator Program works with prospective entrepreneurs at the earliest stages of development to transform their ideas into minimum viable products. Examples of the types of services provided by a pre-accelerator include guidance on acquiring grant funding, establishing enterprise structure, protection of intellectual property, and developing pitch decks.
- **Program:** The New York State Bio-Accelerator Program.
- **Program Eligible Enterprises:** A life science business enterprise that may apply to and participate in the Program. Eligible enterprises include: unincorporated teams of scientists and/or entrepreneurs seeking to commercialize life science technology; pre-investment business enterprises; and early-stage companies.
- **Respondent:** A firm that submits a proposal in response to this RFP.

III. BACKGROUND

The mission of ESD is to promote a vigorous and growing economy, encourage the creation of new jobs and economic opportunities, increase revenues to New York State (the “State”) and its municipalities, and achieve stable and diversified local economies.

In 2017, New York Governor Andrew M. Cuomo enacted an initiative, to be administered by ESD, to spur the growth of a new, world-class life science cluster in New York. The State currently possesses significant untapped technological and scientific innovation with commercial potential and trails other states in metrics such as life science employment and life science venture capital (VC) funding.

Governor Cuomo has pledged to invest up to \$620 million to expand within the State of New York the private sector’s commercialization of life science innovations through a mixture of tax incentives, grants, capital for life science companies, and matching funds for private sector partnerships. The \$620 million is expected to be allocated as follows:

- **Capital Assistance (\$320M):** Investment in programs and services, grants, and strategic initiatives
- **Refundable R&D Tax Credit (\$100M):** Tax credits available for new life science companies located in New York State, including refundable tax credits for R&D expenditures
- **Excelsior Jobs Program Tax Credit for Life Science (\$100M):** Tax credits available for companies creating jobs in New York State
- **Private Sector Matching Funds (\$100M):** Co-investment from private-sector partners

The goal of the aforementioned investments is to grow and support the State’s life science innovation ecosystem by creating synergies between the private sector, academia, and the public sector. The desired impact of the Life Science Initiative is to:

1. Fuel economic growth and job creation in the life science sector;
2. Develop new therapies and drugs to enhance patient health;
3. Generate new startups from New York universities, research labs, and incubators;
4. Encourage private investment and public-private partnerships; and
5. Incentivize capital formation, particularly in upstate areas.

IV. PROGRAM OVERVIEW & SCOPE OF WORK

ESD seeks to enter into an eight-year contract (five years of Program operations and three additional years of reporting) with a private Program partner (the “Awardee”) who will create, implement, and manage the Bio-Accelerator Program in New York City. The Program is a critical component of the larger initiative to grow a life science industry cluster within the State of New York. ESD seeks to partner with a firm that aligns with ESD’s economic development mission and is able to successfully promote a life science industry cluster in the State of New York.

The scope of work for the Awardee will be to develop and execute the Program's work, as follows:

1. The Bio-Accelerator Program will support the most promising Program Eligible Enterprises seeking investment capital. The Awardee will provide mentorship, lab space, educational programming, and investment capital to participating business enterprises, culminating in a public pitch event or demo day for each Cohort. ESD intends to provide funding to assist the Awardee for five years of program operations. It is anticipated that the Program will self-finance and continue operating after five years.
2. During each year of the five-year duration of operations, the Awardee will conduct not fewer than two application processes, one for each Cohort.
3. A minimum of 2 Cohorts will complete the Program each year. A minimum of 25 Program Eligible Enterprises will complete the Program during year one of operations. A minimum of 40 Program Eligible Enterprises will complete the Program during year five of operations. The Awardee will be expected to gradually increase the number of enterprises completing the Program each year of operations.
4. The Program will be located in New York City. While the physical location for the Program will be in New York City, the Awardee will be expected to collaborate with ESD-funded Pre-Accelerator Programs throughout New York State. Such collaboration will include accepting mature Pre-Accelerator Program business enterprises to participate in the Bio-Accelerator Program. While the Awardee will be encouraged to select New York State-based business enterprises, the Bio-Accelerator Program is also expected to attract to the State of New York promising, new start-ups and early stage enterprises from across both the nation and the globe. The Awardee will be responsible for finding and procuring lab space in New York City to administer the program.

To address the scope of work identified above, the Awardee will engage in the following activities and provide a plan to execute on these activities. More details are outlined in **Section VII**.

1. **Programming:** Deliver state-of-the-art business and life science training to Program Eligible Enterprises in order to transform research and innovation into commercially and clinically viable products and services
2. **Sourcing & Selection:** Source a pipeline of Program Eligible Enterprises to participate in the Program through targeted sourcing channels
3. **Network:** Provide access to a global life science network to mentor the participating business enterprises in the Program, while also connecting stakeholders throughout New York State (e.g. upstate universities, Pre-Accelerator Programs, incubators, and companies). The network should include potential investors and/or corporate partners.
4. **Investment Capital:** Provide investment capital for all Program Eligible Enterprises participating in the Program. In addition, the Awardee should plan to provide additional follow-on investment to the most successful companies and business enterprises participating in and completing the Program.

5. **Program Reporting:** The Awardee must prepare and submit semi-annual and annual progress reports that include the following information. These reports will be required for all five years of Program operations and an additional three years:

Report Type	Report Information
Semi-Annual and Annual Progress Reports	<ul style="list-style-type: none"> • Program narrative and progress to meet milestones • Detailed work plan for the upcoming report period, including milestones, activities and dates • Detailed financial budget from the most recent report period • Detailed summary of Program metrics

6. **Program Metrics:** Awardee must prepare and submit updates on Program metrics in the semi-annual and annual reports. Throughout Program delivery and for three years after ESD funding for the Program ceases, ESD will require tracking of the following metrics, with evaluation of improvement from baseline metrics over time:

Category	Relevant Metrics
Applicant Volume and Acceptance Rate	<ul style="list-style-type: none"> • Number of applicants • Number and list of Program participants • Number of applicants sourced from New York State vs. out of state or globally
Program Completion	<ul style="list-style-type: none"> • Number of business enterprises participating in the Program each cohort • Number of business enterprises completing the Program per cohort (include narrative description for each participant) • Number of participating business enterprises located in New York State after Program completion (include current location for each company)
Funding	<ul style="list-style-type: none"> • VC dollars raised by participating business enterprises • Dollars of NIH grants and SBIR/STTR grants received by participating business enterprises
Mentorship Network	<ul style="list-style-type: none"> • Number of individuals in the mentorship network (investors, serial entrepreneurs, corporate, academia) from different life science entities <p><i>Please list organization associated with each individual</i></p>
Portfolio company failure rate	<ul style="list-style-type: none"> • Number of participating companies in existence post-program completion year after year
Life Science Employment	<ul style="list-style-type: none"> • Number of New York State jobs created by portfolio business enterprises
Life Science Companies	<ul style="list-style-type: none"> • Number of life science business enterprises that moved to New York State to participate in the Program

V. SCHEDULE OF DATES

Issuance of RFP	May 10, 2019
Questions/Comments Due Date	May 22, 2019
ESD's Responses to Questions	May 29, 2019
RFP Response Due Date	June 10, 2019 3:00 PM EST

After proposals are received, ESD may invite some Respondents to make an in-person presentation.

VI. SUBMISSION OF PROPOSALS

Each Respondent should submit a clear, concise proposal that provides all of the information requested below and adheres closely to the RFP instructions and requirements. The information requested is the minimum ESD expects from Respondents to be considered for award. Respondents are advised to thoroughly read and follow all instructions contained in this RFP. **Incomplete proposals will not be considered for award.**

Please provide the following information in the same order in which it is requested in 12-point type with standard margins printed on one-sided 8 ½ X 11 inch pages, either bound or contained in a binder.

Responses must be received by **June 10, 2019 at 3:00pm EST**. Send to:

John F. Discolo, Procurement Unit
Empire State Development
633 Third Avenue 35th Floor
New York, New York 10017

RFP Title: "REQUEST FOR PROPOSALS (RFP) Bio-Accelerator Program Services"

The submission must include five (5) hard copies of the proposals containing the information required by this RFP and one (1) additional electronic copy (flash drive). Respondents can also email a copy of the proposal to the designated email address for this RFP, but hard copies must still be submitted by the deadline in order to be considered.

OVERALL MINIMUM PROGRAM REQUIREMENTS:

Contract: Awardee will enter into an eight-year contract with ESD (five years of operations and three additional years of reporting to ESD).

Program Location: The Bio-Accelerator Program will take place in New York City.

SELECTION CRITERIA

Respondents will be evaluated based on the selection criteria and weighting as specified below. Proposals that do not comply with the instructions outlined below may be subject to scoring reductions during the evaluation process or deemed non-responsive.

Criteria	Weight
1. Outcomes & Experience	30%
2. Operating Plan	25%
3. High-Level Timeline and Management	10%
4. Cost and Investments	25%
5. ESD Equity Opportunities	5%
6. Diversity Practices	5%

1. **Outcomes & Experience (30%):** Provide details on the Respondent’s relevant life science experience building a Program that aligns with ESD’s mission of establishing and supporting a life science industry cluster in New York State.
 - 1.1. What experience does the Respondent have improving similar Program metrics (as outlined in **Section IV**) and building a successful life science start-up community and overall life science ecosystem? Please provide at least **ten start-up and early stage business references** for ESD to contact.
 - 1.2. What are the greatest barriers to accelerating life science companies in New York State? How does the Respondent expect to proactively address those barriers?
 - 1.3. What is the Respondent’s level of experience sourcing and mentoring start-ups and early stage enterprises and building programming in the following life science areas: therapeutics (e.g. small molecules, biologics, etc.), health technology (including digital health and bioinformatics), medical devices, diagnostics, and research tools?
2. **Operating Plan (25%):** Provide details on programs and services that will be provided to address the needs of the State life science ecosystem.
 - 2.1. **Programming:** Provide proposed Program offerings and curriculum including a description of each of the programming components.
 - 2.2. **Sourcing & Selection:** Provide details related to sourcing of business enterprises for the Program and any relevant experience working with targeted sourcing channels.
 - 2.2.1. Include sourcing channels (e.g. tech transfer offices, academia, incubators) and experience working with these channels.
 - 2.2.2. Include a proposed percentage of participating business enterprises that could be feasibly sourced from New York State vs. the percentage of participating business enterprises that would need to be sourced outside of New York State for the first year of the Program. Please provide a rationale for the proposed percentage. In consultation with the Awardee, a minimum percentage of New York State-sourced business enterprises will be stipulated for each year of the Program.
 - 2.2.3. Include a proposed percentage for each of the different types of life science business enterprises (as mentioned in **Section VII.1.3**: therapeutics, health technology, medical

devices, diagnostics, and research tools) that the Respondent would accept into the Program each year. Please provide a rationale for the proposed percentage.

- 2.2.4. Include a proposal for how the Respondent will evaluate business enterprises to be selected.
- 2.2.5. Include a proposal for: how many business enterprises the Respondent will select per cohort, the number of business enterprises expected to complete the Program per cohort (see **Section IV** for minimum requirements), and a plan to grow the number of participants completing the Program per cohort per year over the five years of Program operations.
- 2.3. **Network:** Provide details on proposed recruitment of a top-tier life science mentorship network (see definitions section for more details on network). Include life science mentor connections currently in the Respondent's network and whether the connection is: 1) global or national or 2) New York / East Coast-based or 3) other.
 - 2.3.1. **Investors:** Provide a plan to engage top-tier life science VCs and investors to mentor and invest in participating business enterprises. Include a list of investor connections.
 - 2.3.2. **Serial Entrepreneurs:** Provide a plan to engage serial entrepreneurs with experience building and developing life science companies to mentor participating life science business enterprises. Include a list of serial entrepreneurs in the Respondent's network.
 - 2.3.3. **Corporate:** Provide a plan to engage leading life science-related corporations that are likely investors, partners, or customers to mentor participating life science business enterprises. Please include list of companies and company leaders in Respondent's network, and detail Respondent's experience working with them previously.
3. **High-Level Timeline & Management (10%):** Provide a detailed plan to roll out and operate the Program, including proposed management and resources.
 - 3.1. **Timeline:** Provide a timeline with key activities and milestones mapped to a go-live date in Q4 2019 and through the end of five years of Program operations in 2024. **Successful proposals will plan for the program to self-finance and continue operating after five years.**
 - 3.2. **Management & Governance:** Provide proposed management, leadership, and personnel roles and responsibilities for the Program.
 - 3.2.1. Include CVs of proposed candidates and/or the qualifications the Respondent will be looking for in proposed candidates that will lead the Bio-Accelerator, as well as other key personnel.
 - 3.2.2. Include proposed governance structure for the Program.
4. **Cost and Investments (25%):** Provide proposed rates for providing services, including cost projections to operate the Program. It is anticipated that successful Respondents will propose to share operating expenses with ESD. ESD will comprehensively consider the dollar value committed to Program operations by the Respondent and the dollar value committed to investment in participant business enterprises by the Respondent.

Please include high-level projections in Word and raw data projections in Excel. Use the attached Excel template provided as a starting point but add other categories as necessary. ESD's funding will not be used directly for investment in participating business enterprises.

- 4.1. **Cost:** Provide five-year cost projections for the Bio-Accelerator Program. Projections should include both direct and indirect costs. Include operating costs (e.g., management and staff, programming and marketing materials, lab space rent, events, and travel) and capital costs (e.g., supplies, equipment). Include assumptions that are inputs into the cost projections including: number of Program participants per cohort per year, cost of lab space rent, etc.
 - 4.1.1. Include proposed operating costs to be assumed by the Respondent under the Program. **Successful proposals will commit a greater value of Program operating costs.**
 - 4.1.2. Provide proposed operating costs to be assumed by ESD under the Program. **Successful proposals will request a smaller value of Program operating costs to be assumed by ESD.**
- 4.2. **Investment:** Provide a plan as to how the Respondent will invest in participating business enterprises. Successful proposals will include details on how the Respondent intends to invest in the most promising business enterprises and incentivize those enterprises to remain within New York State after graduating from the Program. **Successful proposals will commit a greater amount of investment capital to enterprises participating in the Program**
 - 4.2.1. Include proposed up front dollar investment, equity percentage, and preferred investment vehicle (convertible debt vs. equity) for participating business enterprises.
 - 4.2.2. Include proposed funding and/or equity terms Respondent will provide participating business enterprises.
5. **ESD Equity Opportunities (5%):** Respondents may include a proposal to provide ESD with equity in participating business enterprises. Provide a plan as to how Respondent will provide ESD with such equity opportunities.
 - 5.1. Include proposed equity percentage to be provided to ESD and preferred investment vehicle (e.g., convertible debt vs. equity) for participating business enterprises.
 - 5.2. If Respondent's proposal includes different equity terms for ESD than those sought by Respondent, include details on how such terms will differ.
6. **Diversity Practices (5%):** ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Accordingly, respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire (See **Attachment A**).

VII. QUESTIONS

All substantive questions should be sent by email to ESD LSAccelerator@esd.ny.gov by May 22, 2019. In addition, any changes, additions or deletions to this RFP will also be posted publicly, along with the electronic version of this RFP. Respondents should note that any necessary clarification must be sought by the deadline for questions set forth in the “Schedule of Dates” section of this RFP.

OTHER THAN THE CONTACT IDENTIFIED ABOVE, PROSPECTIVE RFP RESPONDENTS SHALL NOT APPROACH ESD’S EMPLOYEES, OR ANY STATE GOVERNMENT EMPLOYEES OTHER THAN STATE LEGISLATORS AND THEIR STAFF, DURING THE RESTRICTED PERIOD OF THIS RFP PROCESS ABOUT ANY MATTERS RELATED TO THIS RFP OR ANY QUALIFICATIONS SUBMITTED PURSUANT THERETO.

VIII. GENERAL PROVISIONS

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

- i. amend, modify or withdraw this 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 Respondent;
- vii. communicate with any Respondent 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 Respondent.

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. If any Respondent wishes to claim that any information submitted in its response to this RFP constitutes a Trade Secret or is otherwise exempt from disclosure under FOIL, such claim must be made at the time of the response and must be in writing supported by relevant and material arguments. 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. PROCUREMENT FORMS AND REQUIREMENTS

i. Conflicts of Interest

Respondent must attest it has read, understood and will comply with the following provisions. 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 the Agencies and their Affiliates, 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 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 ESDC 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 Respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a Respondent is found to have knowingly and willfully violated the State Finance Law provisions, that Respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract. The designated contact account for this solicitation is referenced on the cover of this RFP.

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at:

http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf.

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

iii. Vendor Responsibility Questionnaire

All Respondents to this 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 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).”

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 Respondent and each person signing on behalf of any Respondent 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 Respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

v. 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

NEW YORK STATE LAW

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

ESD has an agency-wide overall goal of 30% for MWBE participation, 15% for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15% for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). For purposes of this solicitation, ESD strongly encourages and expects the respondents to consider MWBEs in the fulfillment of the requirements of the Contract. ESD may establish a goal based on the scope of work and project description identified in the RFP response. Unless clearly identified, all reporting requirements below are only applicable if MWBE goals are assessed and established for this project.

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. For guidance on how ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

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

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this 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, regardless of whether a goal is established, shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a QUARTERLY basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross

wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

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

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

Form OCSD-2: <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>

Form OCSD-3:

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

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

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

Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6-Compliance-Report.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 Respondents is practical, feasible, and appropriate. Accordingly, Respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire (See Exhibit 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 has an agency-wide an overall goal of 6% for SDVOB participation. For purposes of this solicitation, ESD strongly encourages and expects the respondents to consider SDVOBs in the fulfillment of the requirements of the Contract. ESD may establish a goal based on the scope of work and project description identified in the RFP response. Unless clearly identified, all reporting requirements below are only applicable if an SDVOB goal is assessed and established for this project. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. 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.

vi. Encouraging the Use of New York State Businesses in Contract Performance Form

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Respondents for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. In order for ESD to assess the use of New York State businesses in each 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>.

vii. 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.

viii. 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 copy of Schedule A for this procurement is attached as **Attachment B** to this RFP.

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 successful Respondents will need to accept these terms prior to contract execution.

ix. 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, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

x. 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;
- 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;

New York State 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.

xi. W-9 Form

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

xii. EO 177 Certification

In accordance with Executive Order No. 177 (issued on February 3, 2018, available here <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO177.pdf>) any entity that provides goods or services to ESD must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the New York State Human Rights Law. Accordingly, all Respondents must submit an EO 177 certification form with their proposal. The form is attached to this RFP in **Attachment C**.

xiii. Conflicts of Interest Attestation

Provide a completed copy of the Conflicts of Interest Attestation attached to this RFP as **Attachment D**.