



**Empire State
Development**

THE NYS MWBE BUSINESS GROWTH ACCELERATOR (BGA) REQUEST FOR PROPOSALS

Issued: May 9, 2017

Submission Deadline: June 5, 2017 by 12:00 PM ET

IMPORTANT NOTICE: A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until approval of the Contract. Respondents are prohibited from contact related to this procurement with any New York State employee, other than the designated contacts listed below (Refer to: <http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>).

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:

MWBEBGARFP@esd.ny.gov

This RFP is posted on the Empire State Developments website:

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

Contents

I.	INVITATION TO SUBMIT PROPOSALS.....	2
II.	INTRODUCTION	2
III.	OVERVIEW	2
IV.	DEFINITIONS.....	4
V.	SCOPE OF WORK.....	6
VI.	PROGRAM FUNDING.....	8
VII.	APPLICANT INFORMATION.....	9
VIII.	SCHEDULE OF DATES.....	13
IX.	SELECTION CRITERIA	13
X.	SUBMISSION OF PROPOSALS.....	14
	i. Technical Proposal.....	15
	ii. Administrative Proposal.....	17
XI.	QUESTIONS	18
XII.	GENERAL PROVISIONS.....	18
XIII.	CONTRACTUAL REQUIREMENTS.....	20
	i. State Finance Law Sections 139-j and 139-k forms	20
	ii. Vendor Responsibility Questionnaire	21
	iii. Iran Divestment Act.....	22
	iv. Non-Discrimination and Contractor & Supplier Diversity Requirements.....	22
	v. Encouraging the Use of NYS Businesses in Contract Performance Form	29
	vi. Certification under State Tax Law Section 5-a.....	29
	vii. Schedule A.....	30
	viii. Project Sunlight	30
	ix. Insurance Requirements.....	30
	x. W-9 Form.....	31
	xi. Not-For-Profit Organizations.....	31

I. INVITATION TO SUBMIT PROPOSALS

The New York State Urban Development Corporation (UDC) doing business as Empire State Development, in cooperation with the New York State Department of Economic Development (DED) through its Division of Minority and Women Business Development (DMWBD) Office (UDC and DED being hereinafter collectively referred to as “ESD”) is seeking proposals from Anchor Institutions to award grant funding in support of the ESD Business Growth Accelerator (Business Growth Accelerator/BGA). The Business Growth Accelerator is a two-year program, providing eighteen (18) months of technical assistance and business development training for NYS certified Minority-and Women-owned Business Enterprises (MWBEs). ESD will award a grant to Anchor Institutions (Anchors) pursuant to the procedures set forth below.

II. INTRODUCTION

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

Through the DMWBD, ESD seeks to promote equality of economic opportunities for MWBEs and to eliminate barriers to their participation and resources that increase access to information and opportunities for New York State certified Minority and Women-owned businesses throughout the State.

DMWBD’s Key objectives are:

- To assist state agencies that are engaged in contracting activities to award state contracts to MWBEs in keeping with the Governor’s stated MWBE utilization goals;
- To review applications by businesses seeking certification as an MWBE and to maintain a directory of certified MWBEs; and,
- To promote the business development of MWBEs through education and outreach to MWBEs, prime contractors, and contracting agencies.

III. OVERVIEW

The Business Growth Accelerator is a two-year (18 month curriculum, 2 year reporting) cohort program providing actionable technical assistance and targeted business development training to participants. Anchors must identify three (3) industries that they will focus on in the delivery of this program. Selection of the targeted industries must include at least one (1) industry listed as part of the NYS Supply and Demand Utilization Initiative (SDU) (*View Appendix A*).

In the event that the remaining two (2) industries are outside of SDU areas, they must be clearly identified by the Anchor with provided quantitative and/or qualitative analysis detailing regional

opportunities and/or projects that represent substantial growth opportunities for participating NYS certified MWBE firms. This analysis should provide a clear business case as to why and how these industries represent growth opportunities for MWBE firms and what the projected growth opportunity is in percentage terms. It is suggested that these industries align with the strategic priorities and pending projects of the respective Regional Economic Development Council (REDC). Consideration is also given for proposals that provide specific plans for MWBE growth based on involvement of firms on state procurement opportunities within a specific region.

Each program cohort will be comprised of 20-25 businesses, with balanced industry representation and based on MWBE firm availability in each industry, as identified and selected by Anchors, subject to ESD approval. To the extent possible, Anchors will endeavor to identify participants engaging in complimentary business activity to provide opportunity for and encourage partnership and/or joint ventures between businesses seeking to engage in public contracting.

The winning Anchors will develop and submit, as part of their RFP response, an 18 month curriculum detailing organized cohort seminars and individualized one-on-one business development assistance. Each Anchor must conduct a comprehensive individualized gap analysis of each firm during month one of the program curriculum. This gap analysis of each participating firm must critically assess each firm's current financial, operational, managerial, and marketing capacity prior to beginning workshops and one-on-one sessions. Results of the month one gap analysis will be provided to ESD in the first report, and should be referenced by the Anchor in implementing the one-on-one consultations. The results of the gap analysis will be used to determine minimum benchmarks for classroom sessions, and must support the one-on-one assistance needed and provided per firm. Analysis should be conducted on each participating firm, by an expert consultant in the field.

The overall goal of the curriculum developed by the Anchors should focus on participating MWBEs with comprehensive counseling, capacity building, and training assistance. DMWBD expects the curriculum to emphasize: (a) developing lasting business and problem-solving competencies that will translate directly into sustainable business growth, tangible and documentable business efficiency/practices, leveraging technology, identification of best practices within their respective industry, identifying opportunities for collaboration with prime vendors and/or joint ventures as well as mentor-protégé opportunities through the NYS mentor-protégé program (*View Appendices B1 and B2*); (b) successfully securing public and private sector contracts as a prime or sub-contractor in areas with potential growth opportunities; (c) securing and/or expanding existing capital facilities to position these firms to handle the increased contract volume expected to be produced as part of this initiative; (d) increasing sales through increased State contract participation; and (e) documentable job creation and/or expansion.

MWBE & SDVOB Subcontractor Interest

New York State certified Minority- and Women-Owned Businesses (MWBEs) and Service Disabled Veteran Owned Businesses (SDVOBs) may request that their firm's contact information be included on a list of MWBE and SDVOB firms interested in serving as a subcontractor for this procurement. The listing will be publicly posted on ESD's website for reference by the bidding

community. A firm requesting inclusion on this list should send contact information and a copy of its NYS MWBE or SDVOB certification to MWBEBGARFP@esd.ny.gov. Nothing prohibits an MWBE Vendor from proposing as a prime contractor.

Per Article 4-A of the Economic Development Law, technical assistance to MWBEs through this educational program must include, but is not limited to:

1. The development and execution of business plans for MWBEs, including the formation, acquisition, management, or diversification of the firm;
2. Assistance with loan applications for obtaining funds from public and private financing sources, and the development of a working capital budget; and,
3. Referrals to other providers of technical assistance, where appropriate, including the Entrepreneurial Assistance Program (EAP) established pursuant to Article 9 of the Economic Development Law.

IV. DEFINITIONS

The following definitions are provided for clarification of terminology utilized within this RFP.

- **Anchor Institution (Anchor)** – Eligible organizations responsible for the design, implementation, operation, and reporting of the ESD MWBE BGA program. These include Colleges or Universities or community based Non-Profit Organizations.
- **Annual Goal** – The numeric outcomes established for the contract year and made a part of the agreement. Reported data is measured against the goals established to determine results to date.
- **Annual Revenue Change** – Change in the annual income of a firm from the sales of goods, services, or any use of capital or assets, before any costs or expenses are deducted due to the main operations of a firm.
- **Businesses with Increased Sales** – The number of companies that increased sales in the reporting quarter.
- **Cohort** – Group of 20-25 firms selected by an Anchor Institution to participate in the training, services and other activities offered by the Anchor Institution, throughout the entirety of the BGA program.
- **Consolidated Funding Application (CFA)** – An online easy-to-use application for accessing State resources currently available through State agencies and authorities. It allows applicants to access multiple resources through one application process. This system streamlines and expedites the grant application process. For more information on the CFA process, go to: <https://apps.cio.ny.gov/apps/cfa>
- **Credit Growth** – Firm demonstrating expanded abilities to secure business loan(s), establish line of credit, improve business owner(s)' credit score, and/or improve business likelihood of receiving approval from lending institutions.
- **Division of Minority and Women's Business Development (DMWBD)** – A Division under Empire State Development, responsible for administering State of New York's MWBE program.

- **Dollar Amount of Increased Sales** – Dollar amount of increased sales reported by the businesses for the reporting quarter.
- **Expanded Employment** –The creation of new positions or hiring of new talents to continue alignment with business growth. The number of employees hired. Part time employees must be entered as .50.
- **Collective Number of New Employees** –The total number of new employees in all firms in a cohort.
- **Gap Analysis** – A method of performing comprehensive examination of a business to establish a business’ benchmark for business operations, financial/accounting, sales, marketing, and management.
- **Jobs Retained** – Number of positions kept with no reduction in overall employment from the time the participating business initiated engagement in the BGA initiative.
- **Matching Dollars/Matching Funds** – The dollar amount contributed by the Anchor for the BGA. This match may not be paid by State funds, must come from non-State sources, and may not include enrollment fees. These costs are to be funded by the operator or a partner as cash or in-kind contributions. The selected awardees are required to contribute a match in an amount no less than 50% of the amount of funding provided by ESD. See Section VI for further information on requirements.
- **Minority and Women-owned Business Enterprise (MWBE)** – A business concern which has been certified by the Division of Minority and Women’s Business Development as meeting all eligibility requirements set forth by NYS Executive Law 15-A. For more information on the NYS MWBE certification process go to: <https://esd.ny.gov/mwbe/certification.html>
- **Mobilization Funding** – Initial payment made to anchor at the beginning of the program to cover program initiation costs.
- **Regional Economic Development Council (REDC)** – Statewide regional areas responsible for developing strategic plans to continue promoting Governor Cuomo’s economic development agenda. For more information about the REDC process, go to: <https://regionalcouncils.ny.gov>
- **Success Story** – A firm(s) which has demonstrated achievements in business growth, through securing contracts (public or private), expanding its workforce, improving its credit status, securing a business loan, establishing a line of credit, creating strategic alliances which leads to tangible results, expansion in equipment(s), relocation to facility greater business operations, and/or implementation of acquired technical skills/techniques that lead to tangible results. Success Stories grow in areas where minimum metric benchmarks have been provided.
- **Supply Demand Utilization (SDU)** – An initiative based on an analysis conducted by DMWBD, which reviewed State agency expenditure in certain industries and utilization of certified firms in those categories. The initiative aims to increase utilization of certified firms in targeted industries on state contracting opportunities. For information on the SDU, go to: <https://esd.ny.gov/mwbe/businessdevelopment.html>

V. SCOPE OF WORK

The Anchor would be required to provide cohort participants, directly or through partners, intensive technical assistance and business development support during the duration of the program. Training would be provided in the form of workshops, classes, group sessions, and individualized one-on-one support.

Training topics in this program, in addition to the areas identified above, should also include, but are not limited to:

- Marketing (Market Research, Target Market, Positioning, Branding, Social Media, content management, Search engine optimization, web page development)
- Finance (Financial Literacy, Credit Repair, Financing, Insurance/Bonding, Loan Packaging, Financial Statement Analysis)
- Accounting (QuickBooks, Payroll, Accounts Receivable/Payable)
- Managerial/Business Operations (Employee Management, Project Management, Computer Skills, Human Resources, Workers Compensation)
- Legal (Compliance, Employment/Labor Law, Industry Regulations, Business Law)
- Contracting (Licensing, Bid Development, EEO/Workforce, Cost Estimating, Proposal Debriefs)
- Sales (Elevator Pitch, Selling Techniques)
- Global Markets (Export/Import)

The 18 month business accelerator program will prepare MWBE business owners on all aspects of growing and sustaining a successful business. Program highlights include:

- Concentrated focus on individualized one-on-one consultation provided to cohort participants. Each participating firm to receive at least 30 to 50 hours of consultation, proportionate to what is needed and contingent on the results of the performed gap analysis. *Appendix C breaks down the required hours of assistance and training each participant must receive, through a sample schedule.* The respondent must include a proposed Year 1 class schedule in their response and what one-on-one resources would be utilized in delivering the program (*View Appendix D*);
- Intensive business academic seminars for at least 35 hours, with subjects focused on areas where there is a collective need for standard business acumen. The respondent must include a proposed Year 1 class schedule in their response (*View Appendix D*);
- Up to two (2) representatives from each business can participate, one must be the majority business owner, and an additional staff member selected at the discretion of the participating firm. Identified program attendees must remain active throughout the entirety of the program cycle;
- The business owner will be the point person to submit all pertinent documents and applications to the Anchor as required;
- Anchor must collect, assess, and submit information on all participants during the full two year program reporting period;

- Anchors may charge a minimal fee, as determined by the ESD sliding scale:

Annual Revenue Range During the Most Recent Year	One-Time Enrollment Fee
\$100,000 – \$199,999	\$200
\$200,000 – \$399,999	\$300
\$400,000 – \$599,999	\$400
\$600,000 – \$799,999	\$500
\$800,000 – \$999,999	\$750
\$1,000,000 – \$3,000,000	\$1,250

ESD estimates that as of February 2017, approximately forty percent (40%) of all NYS certified MWBE firms are sized between \$100,000 and \$3 million. The chart below includes additional information of all NYS MWBE certified firms by their reported annual revenue range. Applicants should use this information to project the likelihood of participating firms in each revenue range, in order to determine projected program income as part of the required submitted program budget.

Reported Annual Revenue	Percentage of NYS MWBE Certified Firms
<\$100,000	28%
\$100,000 – \$499,000	26%
\$500,000 – \$999,999	12%
\$1,000,000 – \$4,999,999	23%
>\$5,000,000	11%

COHORT ELIGIBILITY

Businesses interested in participating in the cohort would be required to complete and submit an application to the Anchor institution in order to be considered for the program. ESD will provide the cohort application form. The Anchor is responsible for evaluating and choosing the cohort participants, with final approval from ESD. If necessary, the Anchor may request additional information from applicants as part of their evaluation process. At a minimum, vendors are required to:

- Submit an application to regional anchor
- Be a currently certified NYS MBE, WBE or MWBE
- Must be in business for at least 2 years
- Must have at least two employees
- Demonstrate annual revenues between \$100,000 and \$3 million during the most recent year
- Business located in the anchor’s region

RESPONSIBILITIES

Program responsibilities for operation and implementation fall on the selected anchors, with specific exceptions, as detailed below.

ESD Responsibilities

For the purpose of standardizing the program across all regions, ESD will be responsible for:

- Creation of: Cohort Application, Pre-Assessment Survey, Participant Evaluation
- Oversight: Analyzing required periodic Anchor reports

Anchor Responsibilities

Anchor responsibilities include, but are not limited to:

- Program Delivery: Design and implementation of curriculum and trainings
- Reporting and invoicing to ESD
- Conducting study of opportunities in the region
- Identifying partners and experts for classes and one-on-one sessions

VI. PROGRAM FUNDING

ESD intends to award three (3) to five (5) grants during this cycle, but reserves the right, in the exercise of its sole discretion, not to award any grant based upon responses received to this RFP or for any other reason.

The selected respondents will receive a grant of \$150,000 for the entirety of the Business Growth Accelerator program, contingent upon the availability of funds and approval from the Division of Budget. The anchor must provide ESD with reports and quarterly invoices that include proof of payment, as described below, in order to receive grant payments.

Payments will be made quarterly on a reimbursement basis, after submission of invoices and proof of payments with mandatory reports, as described below. Invoices must reflect the categories used in the budget submitted as part of the RFP response. The only exception will be the mobilization funding during month one, reimbursed with invoices submitted with the first report.

Quarter/Months	Max Reimbursement Amount
Month 1	\$10,000, as mobilization funding
Quarters 1–6: Months 1–18	\$130,000
Month 24	\$10,000, after receipt of final program report

The grant is to be used only for the purposes stated in the organization's application or otherwise approved, in writing, by ESD. Invoices must be submitted with the program reports, as scheduled in Section VII.

Matching Funds

As a condition of a BGA award, the selected respondents are required to contribute a match in an amount no less than 50% of the amount of funding provided by ESD. "Matching dollars", the portion of project costs not paid by State funds, must come from non-State sources, and may not include enrollment fees; these costs are to be funded by the operator or a partner as cash or in-kind contributions and cannot be sourced from other New York State awards or grants. Applicants may match the award by one or more of the following methods: (1) applicant cash contributions; (2) applicant in-kind (i.e. non-cash) contributions; or (3) non-NYS third-party cash or in-kind contributions. At least fifty percent (50%) of the match must be a cash match, and no more than fifty percent (50%) must be an in-kind match.

Enrollment fees collected at program start is considered program income, and may not be used as part of the matching funds. Any enrollment fees collected must be used for BGA program purposes before the end of the program cycle. Anchors must include program income as part of their submitted budget in their RFP response.

No more than ten percent (10%) of ESD grant and cash matching funds, combined, may be used to cover indirect expenses, also called "overhead," "administrative," or "general operating" expenses. No program income may be used for these overhead costs.

VII. APPLICANT INFORMATION

APPLICANT ELIGIBILITY

Organizations eligible to apply to participate in the Business Growth Accelerator program include Colleges or Universities or community based Non-Profit Organizations. Lead RFP respondents may not be joint-ventures of multiple organizations. In addition, the applicant organization must be located in an area accessible to minority group members, women and other target populations.

Successful applicants will possess previous experience in operating and successfully implementing economic development and/or technical assistance program(s), and be able to demonstrate they possess a clear understanding of public sector procurement practices and laws. Anchors that do not have expertise in all areas required must work with local partners that do have previous experience in order to bring this information to cohort members. All team members must have prior and demonstrated experience in assisting minority and women owned firms in obtaining large scale contracts/procurements and financing awards; educating and assisting minority and women owned firms in joint ventures, teaming arrangements, mergers and acquisitions; and, minority and women business advocacy.

The responding anchor institutions must also demonstrate an understanding of prime contractors in their identified industries, and must show how they intend to further develop current and/or cultivate new relationships that will be used in the accelerator strategies identified in their response.

Interviews for shortlisted awardees will be scheduled between July 5 - 17, 2017, and are mandatory. Failure to participate in an interview if invited will disqualify your application.

Selected awardees must also participate in the 2017 NYS MWBE Forum, from October 4-5, 2017 in Albany, NY. Information on the MWBE Forum and specifics for participation will be distributed only to the winning vendors. All costs associated with travel, accommodations or administration for interviews and/or the MWBE Forum are the vendors' responsibility.

PROGRAM REPORTING REQUIREMENTS AND METRICS

Grantees awarded under this RFP must prepare and submit progress and financial reports. A total of eight (8) reports must be submitted by the anchor as scheduled below:

Report #	Report Title	Report Information
Report 1	Pre-Program Assessment of Firms	<ul style="list-style-type: none"> • Survey of the selected firms • Summary of gap analysis conducted • Confirmation of cohort including summary of each business participant
Report 2	Quarterly Report	<ul style="list-style-type: none"> • <u>Quarterly Report for month 1-3</u> • Must include all invoices for quarter with proof of payments and receipts • Program Narrative • Progress to deliverables
Report 3	Quarterly Report	<ul style="list-style-type: none"> • <u>Quarterly Report for month 4-6</u> • Must include all invoices for quarter with proof of payments and receipts • Program Narrative • Progress to deliverables
Report 4	Quarterly Report	<ul style="list-style-type: none"> • <u>Quarterly Report for month 7-9</u> • Must include all invoices for quarter with proof of payments and receipts • Program Narrative • Progress to deliverables

Report 5	Annual Report	<ul style="list-style-type: none"> • <u>Quarterly Report for months 10-12 and overall annual report</u> • Must include all invoices for quarter with proof of payments and receipts • Revenue changes (positive and negative) • Job creation • Financial credibility (i.e. securing business loans) • Capacity to purchase/add on equipment (if applicable) • State contracts secured • Attendance records (hours participated in one-on-one and classes attended) • Equipment purchased • Capital assets acquired • Participant retention rates • Program Narrative: Challenges and successes for the firms and the anchor, detailed services provided, proposed solutions and information on successful/unsuccessful classes/topics • Finalized curriculum for months 13-18
Report 6	Quarterly Report	<ul style="list-style-type: none"> • <u>Quarterly Report for month 13-15</u> • Must include all invoices for quarter with proof of payments and receipts • Program Narrative • Progress to deliverables
Report 7	Program Completion Report	<ul style="list-style-type: none"> • <u>Quarterly Report for month 16-18, and a program completion report</u> • Must include all invoices for quarter • Overall program narrative (for all 18 months): recommended updates and successful strategies, services provided • Progress to deliverables • Participant evaluations • Attendance records • Retention rates
Report 8	Post-Program Assessment	<ul style="list-style-type: none"> • <u>Assessment for firms 6 months after the completion of the program</u> • Revenue changes • Jobs created/retained aggregate and per firm • Financial credibility/funding secured • Capacity to purchase equipment • State contracts secured • Equipment purchased • Capital assets acquired • Private contracts secured • Business expansions • Updates in certifications/licensing • Updates on offered services and products

Reports must contain information on, but not limited to, the following:

- *Program Narrative* – A program narrative is required, this does not include attachments and other required back-up documentation. The narrative (not a list of activities or itinerary) should discuss and highlight the activities initiated or performed. Furthermore, it should clearly state what impact these activities had on the overall operations of the program and/or impacts on cohort members.
- *Program Accomplishments* – Provide quantitative and qualitative information on program progress and accomplishments of cohort members during the reporting period.
 - Long term: This includes revenue changes (positive or negative), job creation, financial credibility (i.e. securing business loans), capacity to purchase/add on equipment (if applicable), state contracts secured, etc.
 - Immediate/ Short term: Attendance in program events: hours participated in one-on-one sessions, topics covered in on-on-one sessions, action items/next steps agreed on during one-on-one sessions, classes attended
- *Client Narrative* – Discuss and/or highlight on-going services provided to specific clients, such as specifics related to one-on-one session activities/lessons.
- *Coordination and Operational Linkages with Other Sources of Business Assistance* – Describe efforts to coordinate and establish linkages with other organizations, public and private, to work with on the Business Growth Accelerator. Identify organizations and summarize nature of coordination of linkages.
- *Program Modifications/Work Plan Changes* – Describe any needed program or work plan modifications. (All modifications/changes must be made in writing and must be approved by ESD prior to implementation.)
- *Supportive Documents* – Copies of attendance sheets and program or trainer evaluation forms.

The quality of services provided to clients is a major concern of ESD, and is therefore tracked closely through, but not limited to, on-site visits, interviews with clients, client satisfaction surveys, and review and verification of reports and data submitted in the program year. Funded anchors are required to track the progress of each client throughout the duration of the program and after, for 24 months after program start.

Metrics

Throughout program delivery, and after program completion, DMWBD expects the minimum program metrics below to be met, with the expectation that these targets can be exceeded.

Category	Metric
Participant Retention/"Graduation" Rate	85%
Success Stories	Minimum of 15
Number of firms with credit growth	20
Number of firms with secured contracts (public/private)	10
Average revenue change	10% increase projected per annum
Number of firms with expanded employment	10
Collective number of new employees	10
Number of jobs retained	All- No jobs lost

VIII. SCHEDULE OF DATES

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

Release of RFP	May 9, 2017
Pre-bid meeting (if applicable)	May 12, 2017 at 11:00 AM
Deadline for Submission of Questions	May 19, 2017
Deadline for ESD to Respond to Questions	May 26, 2017
Submission of Proposals	June 5, 2017 at 12:00 PM
Interviews (Mandatory for Shortlisted Awardees)	July 5, 2017 through July 17, 2017
Announcement of Successful Respondent(s) (Mandatory for Selected Awardees)	NYS MWBE Forum: October 4, 2017 to October 5, 2017
Anticipated Contract Start Date (Tentative)	November 1, 2017

Please note that ESD reserves the right to change any of the dates stated in this RFP.

To register for the Pre-bid meeting, [click here](#).

IX. SELECTION CRITERIA

ESD will evaluate proposals based on the following criteria, not necessarily in order of importance:

- The applicant's completeness of the proposal;
- The applicant's understanding of program goals and objectives as outlined in the request for proposals;

- The applicant’s proposed curriculum;
- The need for, and anticipated impact of, the proposed NYS MWBE BGA program on the NYS Region in which it will function;
- The applicant’s expected outcomes of the program;
- The extent to which the applicant has experience operating and successfully implementing economic development and/or technical assistance programs;
- The extent to which the applicant, or partner organizations, has experience providing business management and technical assistance to clients;
- The applicant’s financial wherewithal to operate and perform according to the BGA guidelines;
- The applicant’s proposed program budget;
- The extent to which the applicant has been effective in assisting minority and women-owned businesses build capacity and expand;
- The extent of economic distress in the area(s) to be served;
- The extent to which the applicant has been effective in continuing or cultivating relationship with Prime contractors in NYS;
- The applicant’s level of competency of contracting opportunities for MWBEs in regional area;
- The applicant’s operating budget and institutional capacity for using grant funds effectively;
- The applicant’s plans for supplementing grant funding through matching funds and program income; and,
- The applicant's documented commitment to Non-Discrimination Contractor & Supplier Diversity as noted in this RFP.

The proposal will be scored in the following manner:

Firm Experience and Qualifications	20 Percent (20%)
Staff Experience and Qualifications	15 Percent (15%)
Regional Needs and Information	20 Percent (20%)
Project Plan and Approach	35 Percent (35%)
Budget	10 Percent (10%)

X. SUBMISSION OF PROPOSALS

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

i. Technical Proposal

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

- A. Table of Contents
- B. Firm Experience and Qualifications
- C. Staff Experience and Qualifications
- D. Regional Needs and Information
- E. Project Plan and Approach
- F. Budget

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

A. Table of Contents

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

B. Firm Experience and Qualifications

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

- Detailed information on past experiences operating and successfully implementing economic development and/or technical assistance programs;
- Detailed information on the experience providing business management and technical assistance to clients by either the Respondent or partner organizations;
- Detailed information on similar projects of this scope and budget size;
- Demonstrate examples of successfully assisting minority and women-owned businesses build capacity and expand;
- Demonstrate examples of successfully continuing or cultivating relationship with Prime contractors in NYS;
- Detailed information on contracting opportunities for MWBEs in regional area, both currently and projected after program end;
- The operating budget and institutional capacity for use of grant funds; and,
- References from projects with this scope for the Respondent and any partner organization(s).

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

this RFP, and the responsiveness of the Respondent to the client during the engagement. ESD reserves the right to deploy, at its sole discretion, a variety of methods and communication approaches to contact references, depending on what ESD deems to be the most effective and efficient manner.

C. Staff Experience and Qualifications

In this section of the Technical Proposal, Respondents should demonstrate that the staff and any partners' staff proposed have the knowledge and ability to perform the services described in this RFP.

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

D. Regional Needs and Information

In this section of the Technical Proposal, Respondents must demonstrate the regional needs that require the BGA program, and the information leading to decision making by the respondents related to their region as described in this RFP by providing the following:

- Information on the need for, and anticipated impact of, the proposed NYS MWBE Business Growth Accelerator program on the NYS Region in which it will function; and,
- The extent of economic distress in the area(s) to be served.

E. Project Plan/Approach

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

- The proposed program industries;
- The upcoming contract opportunities in the industries chosen;
- The proposed curriculum;
- The expected outcomes of the program; and,
- The plans for supplementing grant funding through matching funds and program income.

Respondents must also submit a detailed plan explaining how the MWBE subcontracting goals established will be met (*See Section XIII. iv. for additional information on the MWBE subcontracting goals*).

F. Budget

In this section of the Technical Proposal, Respondents should provide a detailed budget for the entirety of the program, which includes the applicant's plans for supplementing grant funding through matching funds and program income (*See Appendix E for budget*).

ii. Administrative Proposal

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

- i. State Finance Law §§139-j and 139-k forms, submit with proposal http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf
- ii. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online (and include copy of submitted form with proposal)
- iii. Iran Divestment Act Statement, submit with proposal
- iv. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
 - o [OCSD-1 - MWBE Participation / EEO Policy Statement](#)
 - o [OCSD-2 - Staffing Plan](#)
 - o [OCSD-3 – Workforce Utilization Report](#)
 - o [OCSD-4 - MWBE Utilization Plan](#)
- v. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
- vi. [SDVOB Utilization Plan](#), submit with proposal
- vii. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#), submit with proposal
- viii. [W-9 Form](#), submit with proposal
- ix. Not-For-Profit Organizations, registration and pre-qualification

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

Submission of a Complete Two-Part Proposal

Firms submitting a proposal are indicating their acceptance of the conditions in this RFP. Submission of proposals in a manner other than as described in these instructions (e.g., facsimile, electronic transmission) will not be accepted. When submitting each proposal, Respondents must comply with the following:

- i. The Technical Proposal and the Administrative Proposal must be submitted in separately sealed packages (which may be submitted within one complete package for mailing);
- ii. "Original" documents must have an original signature and be clearly marked "Original";
- iii. Clearly mark the outside packaging for each set of sealed proposals (Technical and Administrative);
- iv. Clearly mark the original and each copy as "**RFP – The NYS MWBE Business Growth Accelerator (BGA) Proposal**" submitted by [Respondent's name]

- v. Each Respondent must submit:
 - o Five (5) hardcopies and one (1) text-searchable electronic copy on CD or flash drive of the *Technical Proposal*.
 - o One (1) original and one (1) electronic copy on CD or flash drive of the *Administrative Proposal*.

A complete package (Technical Proposal and Administrative Proposal) must be received by the deadline in the schedule of dates in this RFP. Proposals should be sent to the following address:

Empire State Development
633 Third Avenue 35th Floor
New York, New York 10017-8167
Attention: Mr. Hector Morel
RFP - The NYS MWBE Business Growth Accelerator (BGA)

Late proposals will not be considered for award.

XI. QUESTIONS

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

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

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 ESD 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 ESD according to the achievement of The Contractor's contractual obligations in a timely and professional manner, as set forth in the resulting Contract. ESD 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 ESD, 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

ESD 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 ESD, 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 ESD. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. The Contractor should notify ESD of any proposed changes in staff immediately. ESD has an absolute right and discretion to approve or disapprove any proposed changes in staff. ESD, 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.

XIII. CONTRACTUAL REQUIREMENTS

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

i. 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.

ii. 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)."

iii. 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>

iv. Non-Discrimination and Contractor & Supplier Diversity Requirements CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE- CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

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

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD hereby establishes an overall goal of 30 percent for MWBE participation, 15 percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15 percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFP, such finding constitutes a breach of contract and ESD may withhold payment as liquidated damages.

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

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, a respondent will be required to submit the following documents, information, and answer the below-captioned questions 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. In addition, as part of the applicant's documented commitment to Non-Discrimination Contractor & Supplier Diversity, answers to the following questions should be included as part of your proposal:

1. Please identify the subcontracting opportunities.
2. How will it be achieved?
3. Please indicate areas where no MWBEs can participate.

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, Form # 1 to ESD with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a QUARTERLY basis during the term of the Contract.

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:

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_WorkforceUtilizationReport.xlsx

Form OCSD-4:

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4MWBEUtilizationPlan.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 Appendix F).

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, Respondents are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

- A. ESD hereby establishes an overall goal of 3% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Respondent/Contractor should reference the directory of New York State Certified SDVOBs found at <http://ogs.ny.gov/Core/SDVOBA.asp> . 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), Respondents are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid (https://esd.ny.gov/sites/default/files/SDVOB_100_Utilization_Plan.pdf).
- B. The Utilization Plan shall list the SDVOBs that the Respondent intends to use to perform the Contract, a description of the work that the Respondent intends the SDVOB to perform

to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Respondent acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to ESD.

- C. ESD will review the submitted SDVOB Utilization Plan and advise the Respondent/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Respondent/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Respondent/Contractor and direct the Respondent/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. 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 Respondent's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Respondent fails to submit an SDVOB Utilization Plan;
 - (b) If a Respondent fails to submit a written remedy to a notice of deficiency;
 - (c) If a Respondent fails to submit a request for waiver; or
 - (d) If ESD determines that the Respondent has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

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

- B. In accordance with 9 NYCRR § 252.2(m), a Respondent/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Respondent 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 Respondent's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) 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 ESD.

Required Good Faith Efforts

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

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Respondents/Contractors' solicitation was not selected.
- (3) Dates of any pre-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 SDVOB 101 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.

ALL FORMS ARE AVAILABLE AT: <http://ogs.ny.gov/Core/SDVOBA.asp>

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

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

vi. 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.

vii. Schedule A

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with Schedule A. A sample can be found at:

https://esd.ny.gov/sites/default/files/ScheduleA_Services_Materials_0.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 successful Respondents will need to accept these terms prior to contract execution.

viii. 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.

ix. 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;

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

x. W-9 Form

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

xi. Not-For-Profit Organizations

A not-for-profit organization receiving a grant from ESD must be or become registered and up-to-date with its filing with the Office of Attorney General’s Charities Bureau, prequalified with New York State Grants Gateway, and in compliance with all other relevant statutory requirements

New York State Grants Gateway

As part of Governor Cuomo’s initiative to better serve the people of the State of New York, a web-based grants management system, Grants Gateway, was launched in spring 2013 to improve the way grants are administered by the State of New York. Grants Gateway also offers not-for-profit organizations a portal to search for available and anticipated grant opportunities, download grant opportunities, and register to receive email notifications when specific types of grant opportunities are posted. All not-for-profit organizations receiving funds from ESD must be prequalified in Grants Gateway prior to ESD approval and the execution of a Grant Disbursement Agreement/Contract.

Grants Gateway Prequalification Process

1. Register with the Grants Gateway

- The Registration Form is available for download at www.grantsreform.ny.gov. The Registration Form can be accessed by clicking the link at the top of the page in yellow labeled “Click HERE to access the Portal or browse for more information below”.
- Include your State Financial System (“SFS”) Vendor ID on the Form; if you are a new vendor and do not have a SFS Vendor ID, include a Substitute for W-9 with your signed, notarized registration (also available from the Grants Reform Web site).
- All registrations must include an Organization Chart in order to be processed.
- Mail the completed Registration Form, Organization Chart that shows the Head of your Organization, and Substitute W-9 (if new vendor) to:
NYS Grants Reform
99 Washington Avenue
Room 1530
Albany, NY 12210-2814
- When you receive your login information via email, log in and change your password. This password will allow access to the Grants Reform Web site.

- 2. Associate your organization with a State agency (ESD)** by clicking on Organization(s) and then selecting Organization Information; complete all required fields.

If you have questions about the Prequalification application, please contact ESD's program representative, Greta Carter-Williams, at greta.williams@esd.ny.gov or the Grants Reform Team by emailing GrantsReform@Budget.ny.gov with "Prequalification" in the subject line.

Attorney General's Charities Bureau and State Comptroller's VendRep System

Prior to ESD approval and execution of a Grant Disbursement Agreement/Contract, not-for-profit organizations must be registered and up-to-date with its filings with the New York State Office of the Attorney General's Charities Bureau ("OAG") and the New York State Office of the State Comptroller's VendRep System ("OSC"). Information on registration is below.

OSC

E-mail: ciohelpdesk@osc.state.ny.us

Phone: Toll free: (866) 370-4672

Locally within the Albany NY area: (518) 408-4672k

http://osc.state.ny.us/vendrep/info_vrsystem.htm

OAG

E-mail: charities.bureau@ag.ny.gov

Phone: (212) 416-8401

<http://www.charitiesnys.com/home.jsp>