



NEW YORK
STATE OF
OPPORTUNITY™

**Empire State
Development**

**New York State's
Community Development Financial
Institution
Access to Financial Services Fund 2 (CDFI
AFS 2)
Request for Applications**

ISSUED: August 3rd, 2023

Designated Contacts for this Request for Applications:

Morgan Clark

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

CDFIAFS2@esd.ny.gov

APPLICATIONS DUE DATE AND TIME:

On or before Friday, September 1st, 2023 by 3 pm EST.

Applications must be emailed by this date and time.

Late applications cannot be accepted.

I. 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.

A. Program Summary

On May 22, 2022, Governor Kathy Hochul signed legislation that boosts consumer protections and addresses inequities in the state's financial services system¹. New York State is committed to expanding access to safe and affordable banking services, which is integral to the stability of and public confidence in the NYS financial system.

The Access to Financial Services Fund program objective is to protect consumers from potentially unsafe and predatory financial products and services. It aims to offer financial literacy, resources, and financial products to expand access to an array of banking services for the unbanked and the underbanked populations throughout New York State.

Up to \$5,000,000 in grant support is available to certified Community Development Financial Institutions (CDFI) that are dedicated to delivering responsible, language accessible, affordable access to banking and financing services in New York State targeting households with income under \$75,000, particularly minority individuals to help move them from the unbanked or underbanked to banked.

Access to safe and affordable financial services is critical to household financial stability, but far too many New Yorkers are either unbanked, meaning that no one in the household has a checking or savings account at a bank or credit union, or underbanked, meaning that the household had a checking or savings account and utilized a non-bank service provider for a financial services transaction in the past 12 months². The Program aims to serve low-income, low-wealth, socially and economically disadvantaged individuals, unbanked or underbanked persons, and micro businesses without access or limited access to banking products or financing services. The program aims to enhance access to banking services and support individual wealth-building for people who may have had no, or limited banking relationships by giving them the opportunity to become part of the financial mainstream and to promote local economic development and revitalization by improving access to capital for local businesses³. In addition to fulfilling the expectation of providing affordable and accessible banking products and services. Participating CDFIs are required to provide financial education and enable individuals and communities to join the economic mainstream and build economic prosperity.

¹ Legislation (S.1684/A.8293) Directs the Department of Financial Services to Conduct a Study on Underbanked Communities Legislation (S.4894/A.1693) Prohibits Banking Organizations from Issuing Unsolicited Mail-Loan Checks.

² **Access To Financial Services In New York** A Report On Unbanked And Underbanked Communities And Households In New York, Pursuant To Chapter 183 Of The Laws Of 2022, May 5, 2023

The purpose of ESD’s Community Development Financial Institution Access to Financial Services (CDFI AFS 2) Fund (the “Fund”) is to support the CDFI model as a way of providing accessible financial education, banking products and access to capital for low- and moderate-income individuals, first time borrowers, unbanked or underbanked New Yorkers to help them achieve entrepreneurial success. The ultimate goal of this program is to help unbanked and underbanked individuals and micro businesses become bankable so they can access financial and banking resources, services to improve credit scores and to achieve entrepreneurial success through one-on-one technical assistance, financial educational workshops, and referrals to affordable financial products and services, like NYS basic banking account or BankOn accounts.³

The proceeds of the Fund cannot be used for personal products such as for purchasing vehicles, personal loans, or mortgages.

The Program collaborates with CDFIs to work in partnerships with local depository institutions to facilitate greater access to financial tools and products within the communities they aim to serve if the applicant CDFI itself is non- depository financial service provider. Such collaborations can bolster the reach and impact of CDFIs, in that way enhancing their ability to provide crucial banking education, services, and micro business access to capital to historically underserved populations. This collaborative approach will promote greater financial inclusion and drive equitable economic development, which can benefit both individual community members and the broader society. By investing in CDFIs with this Fund, NYS ensures that affordable products and services, ranging from provision of basic banking education, opening and maintenance of banking accounts, establishment of credit history, facilitation of credit repair and services to micro business in forms of loan capital, reach the underserved communities that have traditionally been unbanked or underbanked and haven’t had adequate access to banking services or financial products. This RFA will support work to be undertaken in the following three tracks:

Track One: serving the needs of the Unbanked and the Underbanked

- **“Unbanked”** households are defined as households in which no member had a checking or savings account at a bank or credit union⁴. Unbanked are individuals who do not use any banking services at all, including debit cards, checking savings, and/ or money market accounts, but they use alternative financial options like pre-paid cards, pay day loans, pawnshops, cash checking services, loan sharks, and predatory lenders to help them make ends meet and serve their financial needs. The strategy for this specific track would be to teach basic banking and financial education including how to open a NYS savings and checking bank accounts, budgeting, making deposits and understanding the costs and benefits of the regulated financial system.
- **“Underbanked”** households are defined as households that have a checking or savings account at a bank or credit union, but have conducted some of their financial services transactions outside of the bank or credit union by utilizing a non-bank provider. These

³ <https://joinbankon.org/accounts/>

⁴ **Access To Financial Services In New York** A Report On Unbanked And Underbanked Communities And Households In New York, Pursuant To Chapter 183 Of The Laws Of 2022, May 5, 2023

non-bank providers may provide services or products including money orders, check cashing, international remittances, rent-to-own services, payday loans, pawn shop loans, tax refund anticipation loans, or auto title loans”⁵. “Underbanked are individuals who have used financial products in the past, but they would prefer to use alternative financial services like money orders, check cashing, payday loans, pawn shop loans, tax refund anticipation loans, or auto title loans to meet their financial needs”⁶ The strategy in this track would be to provide financial education and one-on-one technical assistance to help them understand the benefits of the financial system, find money to save, be able to borrow by getting underwriting ready, apply for bank credit cards and using it wisely, establish credit history, protect themselves from predatory lenders, and trust the financial system and build long term financial relationships with account representatives and lenders as they build net worth, protect their assets, and save exorbitant costs of being unbanked.

Track Two: Serving the needs of Micro Businesses

- This track will serve the needs of micro business owners who have never accessed a business loan due to pre-revenue status, short time in business, low Global Debt Service Coverage Ratio that determines borrower’s capacity to repay a loan, or micro businesses that have borrowed before but have credit issues such as no or low credit, excess debt, or repayment challenges. A micro business must be registered and licensed in New York State, independently owned and operated, not dominant in its field, have no more than \$250,000, in annual revenue, and have fewer than 10 employees. The strategy through financial education and credit repair would include how to manage debt, using a micro loan up to \$25,000⁷, credit building loans to increase FICO scores, personal and business management budgeting, choosing the right loan for their business, managing cash flow, and achieving loan readiness to access capital for their business.

Track Three: Serving the needs of both Track One and Two

- See descriptions in both Track A and B that address the goals of this Program

⁵ **Access To Financial Services In New York** A Report On Unbanked And Underbanked Communities And Households In New York, Pursuant To Chapter 183 Of The Laws Of 2022, May 5, 2023

⁶ 2021 FDIC National Survey Of Unbanked And Underbanked Households

⁷ As of August 24, 2023, the cap on a micro loan on track 2 is \$25,000

B. Request for Applications Schedule

Release of Request for Applications	August 2 nd , 2023
Deadline for Submission of Questions	August 16 th , 2023
Deadline for ESD to Respond to Questions	August 22 nd , 2023
Submission of Applications (date and time)	September 15 th , 2023; 3:00 PM EST
Announcement of Selections	October 15 th , 2023
Anticipated Contract Start Date	December 2023

II. PROGRAM GUIDELINES

- A. Projects – ESD seeks applications from certified CDFIs to provide financial education, one on one technical assistance, and securing access to affordable financial services like, basic banking or saving accounts, pre-paid credit cards, credit building loans, and other essential financial services that will have the following effects in the communities in which they serve and are located. If the applicant CDFI is not a depository entity, ESD encourages it to partner or work with a depository institution to achieve the goals of this program:
1. Serve high-need communities in New York State, with a focus on underserved minority communities, households with income under \$75K, the unbanked, underbanked, and first-time entrepreneur population.
 2. Offer affordable financial products and banking services that address the needs of economically underserved communities.
 3. Provide capacity building to existing businesses and help them to create additional revenue, improve or establish credit history to secure affordable capital for growth.
 4. Meet the needs of low-income individuals and micro businesses, nonemployee firms, and entrepreneurs, including providing basic financial education, budgeting, banking, and financing services that include, at a minimum, the opening of checking or savings accounts and access to credit, if applicable and needed.
 5. Develop and deliver effective and efficient financial literacy and financial education programming and workshops, through topics that lead to outcomes, directly or in partnership with other expert service providers, to serve new customers who are either unbanked, underbanked, or a very small businesses in need of establishing a credit history, repair credit history, or getting ready for first-time loan request.

6. Expand the capacity of certified CDFIs to serve a greater number of new customers and communities by leveraging existing resources and investing in new initiatives with partnerships and technology that incorporate access to additional financial services, improve efficiencies of operations, create new ways to serve the target market to meet the needs of their banking and financing services.
7. Offer financial education and literacy programs for underserved communities to help them make informed financial decisions, achieve financial stability, and create future wealth.
8. Foster partnerships and collaborate on offering affordable banking and financing products with local organizations and community leaders to promote financial inclusion and create economic opportunities for underrepresented groups. If CDFI is not a depository institution, partner with a depository institution to enable opening of banking accounts.
9. Have specific outcomes that include, but not limited to banking accounts opened, budgeting plans completed, credit scores improved or established, loans made, dollars of financing secured, and financial education completed.

Eligibility Requirements – To be eligible to receive grant proceeds from ESD, all applicants **must provide narratives that address the following:**

1. Provide proof that the lead applicant organization is certified by the United States Department of the Treasury as a CDFI on the date of grant approval by ESD’s Chief Executive Officer, and on the dates of all disbursements of ESD funds. Program awards will be contingent upon current Federal certification and/or recertification status.
2. Provide a plan for the organization application. The plan narrative should include:
 - a. The applicant is requested to provide a detailed plan outlining how they intend to achieve the program goals they propose for this Fund. This plan should address several key elements including the organization’s mission, the markets, and geographic areas they intend to serve, their competition, targeted regions and clients, organizational infrastructure, resources, product and services, and management team. Additionally, the plan should include strategic planning for the proposed activities that uses specific, measurable, actionable, realistic, and timely goals for the proposed Program. Application will also be evaluated based on effectiveness and efficiency of use of funds and proposed program activities. It is essential that the applicant demonstrate proper management and the capacity to operate as a CDFI without relying solely on assistance from the Program for continued viability.

- b. In addition to the above requirements, ESD also expects the organization to outline its approach and detailed planned activities towards achieving the educational component of the program. The applicant must select the track they want to provide services: Track One, unbanked and underbanked, and Track Two, micro business first time access to capital, or Track Three, both that includes Track One and Track Two. Specifically, ESD expects to see how the organization intends to provide relevant financial and banking education (including access to capital, credit history, credit repair, etc.) to the communities they serve. This includes identifying the specific financial literacy needs of the target populations and outlining the resources, workshops, and strategies that will be utilized to effectively deliver this education. It is imperative that the organization demonstrates a comprehensive understanding of the educational needs of their target community and has a clear plan in place to address these needs. Further, once proposed financial literacy needs are completed, please describe specific outcomes – such as number of savings accounts opened, checking accounts opened, credit cards approved, bank loans approved, dollar amount of savings achieved, credit repairs improved, etc.
- c. A description of how the applicant will coordinate with community organizations and depository financial institutions which will provide affordable loans, credit history repairs, savings plan, or other services to bank challenged and otherwise underserved populations, M/WBEs and Micro Businesses.
- d. Grant proceeds shall be matched with funds from sources other than the State's on the basis of not less than 25% of the award. Matching funds shall be comparable in-kind services or equal cash value to assistance provided by the Program. ESD shall provide no financial assistance until the CDFI has secured firm commitments for the matching funds required. Include a detailed description of the applicant's plan and likely sources of funds to match the amount of assistance provided by the Program.
- e. Documented ability to engage underserved communities and maximize their financial impact.
- f. Demonstrate institutional soundness to serve underserved communities and bringing access to financial services to unbanked, underbanked, and micro businesses accessing financial resources for the first time.
- g. Obtain New York State prequalification and related registration standards through the Grants Reform System. This will ensure eligibility to participate in this and future RFAs and receive potential program awards.
- h. Be legally able to receive and use the proceeds as herein stated.
- i. Meet any other requirements herein stated for the specific purpose of the grant.

- j. Be current with reporting requirements for any other ESD assistance, including any previous CDFI program funding.
- k. Must have met or exceeded prior ESD CDFI program goals (if applicable). Previously issued awards do not guarantee awards in this or future rounds of the program.
- l. The CDFI must have a physical presence in New York State and 70% of business transactions are conducted within the state.

B. Application

- a. Select the track your organization will be working on; Track One, unbanked and underbanked, Track Two: micro business first time accessing capital or improving ability to secure capital or Track Three that includes Track One and Track Two.
- b. Organizations must demonstrate an ability to engage with the community they serve or seek to serve and an understanding of that community's needs.
- c. Applicant CDFI must demonstrate an ability to deliver financial education, affordable financial products, and services to low- and moderate-income New Yorkers, If the applicant CDFI is not a depository institution, ESD encourages a partnership with a depository institution that can provide services like opening of bank accounts.
- d. Applicant must identify and invest in successful models for deploying financial services to the underserved, and even completely unbanked, communities.
- e. Provide a statement on the organization's commitment to financial inclusion and racial and economic justice.
- f. Applicant must demonstrate the ability to independently provide services in an impactful and cost-effective way, such as strong lending capacity (Pre-loan TA, credit establishment, credit repair), a capacity to provide independent technical assistance services such as one-on-one assistance, peer lending groups and strong training components associated with access to capital and financial literacy, or the ability to refer individuals to other CDFI's with credit enhancement products, or depository financial institution, community banks, and credit unions for these services.
- g. Organizations must show in their application how the requested funding and leveraged resources can provide for increased capacity to the underserved individuals or micro businesses in highly distressed areas.
- h. The applicant is required to submit a strategic plan aligned with the selected track, outlining the proposed goals in a specific, achievable, and measurable manner.

C. Grant Amount

Grant awards will generally not exceed \$200,000. The project period will generally be no longer than twelve (12) months. Awards will be dependent on feasibility of the program proposed by the applicant and the forecasted program outcomes based on the track(s). For each award ESD expects goals to be achieved based on effectiveness and efficiency in use of funds, depending on the track to be performed under this assistance, and the total amount of award requested. Outcomes shall include, but are not limited to, number of clients served, number and topics of workshop classes delivered, alongside the topics of these, numbers of hours of instruction, number of savings accounts opened, number of checking accounts opened, number of micro loans secured, dollar amount of microloans secured, number of credit repairs assisted, number of credit history established, dollar amount of savings achieved, etc.

D. Funding Source

The Program is funded from the 2023-2024 New York State CDFI Fund Budget Appropriation of \$5 million. This is subject to availability of New York State funds.

E. Project Timeline

Project period will be December 1st, 2023 through November 30th, 2024.

F. Additional Conditions

1. ESD will establish reporting requirements to account for the utilization of grant proceeds by the CDFI. The grant is to be used only for the purposes stated in the organization's application or otherwise approved, in writing, by ESD.
2. All activities generated by funding from ESD, or toward which ESD grant proceeds are used shall be conducted according to the standard business practices of the recipient organization and any agreements with ESD.

III. SCOPE OF WORK

The RFA seeks to identify qualified CDFIs to expand access to safe and affordable banking and financing services and develop approaches to addressing economic inequalities in banking. “Banking services” includes the basic banking services such as opening of traditional banking instruments, such as NYS Basic Banking⁸, BankOn⁹ accounts, checking and savings accounts, as well as access to loan capital, and financial training and education specifically tailored to the specific needs of these communities, such as translated educational and/or marketing materials. The program will make grants available to CDFIs for three general purposes:

A. The Provision of Track One or Track Two, or Track Three

The New York State's Community Development Financial Institution Access to Financial Services Fund aims to provide resources to New York State CDFI, supporting the delivery of affordable financial products and services to low- and moderate-income New Yorkers. The fund seeks to increase access to capital and banking services for New York State micro businesses, which are often deemed too risky for traditional bank debt and may lack the financial literacy necessary to understand where their businesses could best access capital.

Awardees are expected to assist unbanked and underbanked communities, and/ or micro businesses, in building credit and accessing affordable capital, allowing greater access to the mainstream financial system. Preference will be given to applications that emphasize the provision of financial education, as well as guidance on accessing the financial system (such as opening a bank account and making deposits), and reporting to traditional credit institutions to ensure clients build credit and increase their FICO score. TA and financial education may be provided by a certified financial education coach.

Funds may also provide Technical Assistance ("TA") to micro businesses and non-employees without access to capital from a regulated financial institution. This financial education should be geared towards ensuring the success of companies and the repayment of their loans. In addition, funds may be used to provide TA to unbanked and underbanked individuals who need financial education to understand the benefits of the financial system.

Banking Services

Funds may be used to provide broad banking services ranging from savings accounts to capital for lending to individuals, micro business, nonemployee firms, or borrowers within the target populations and geographies that qualify the grant recipient to be a CDFI. For individual borrowers, funds may be used to open accounts, facilitate savings, originate consumer loans to build credit issue debit/credit cards, and increasing mobile and financial transaction services, in addition to other uses that the CDFI can demonstrate will increase the individual’s ability to access banking services and grow wealth.

⁸ SECTION 14-F Power of the superintendent of financial services to require the provision of basic banking services Banking (BNK) CHAPTER 2, ARTICLE 2 | NY State Senate: <https://www.nysenate.gov/legislation/laws/BNK/14-F>

⁹ <https://joinbankon.org/accounts/>

For micro businesses, entrepreneurs, the funds must facilitate, provide, and increase access to capital to increase business ownership, support microbusinesses, expand micro businesses, increase housing development, and support community organizations, with special emphasis on minority group members and women who operate in distressed and highly distressed communities.

Preference will be given to applications that demonstrate strong capacity to meet New Yorkers' needs holistically, whether directly or indirectly. Financial, and banking services, such as one-on-one financial literacy training or help accessing capital and personal banking and be provided directly or in partnership with a depository financial institution, credit union, etc. CDFIs that do not offer traditional retail banking services can work with credit unions to implement broad and inclusive financial literacy initiatives and connect New Yorkers in need with basic retail banking services.

B. Institutional Capacity

As part of our efforts to increase the institutional capacity of the CDFI and strengthen its provision of products and services to bank challenged individuals, ESD anticipates that this grant will encourage greater client participation in our current programs and help us achieve our overall goal of scaling up and increasing efficiencies in individual banking operations and sustainability by leveraging funds and targeting strategic partnerships with depository institutions. Up to 25% of the grant proceeds provided will be available to be used on institutional capacity, including enhancing computer data software to track clients progress, CRM system, data collection, system to report credit to the credit agencies to track FICO score progress.

However, it is important to note that funds must be used in a manner that aligns with the program's goals and objectives. Funds may be used to support activities that develop and create new educational programs and lending activities so that the CDFI can improve, strengthen, scale its performance, offer enhanced or new products and services, and/or encourage greater client participation in current programs. In addition, funds may be used for specific purposes including, but not limited to, the hiring of consultants, marketing campaign to promote the financial educational programs, and the purchase of computer software. Note, funds may not be used to purchase computer hardware, nor fund recurring, ongoing operational expenses, such as rent, salaries, utilities, etc. If previous CDFI grant funds supported Institutional Capacity, request for financial assistance in this round cannot include the same activities. Further, tools and measurements of success and goals must be provided clearly to demonstrate institutional capacity investments' impacts and outcomes.

C. Administrative support

Up to 10% of the grant proceeds may be used for administration of the CDFI's pre loan technical assistance, loan readiness preparation and micro business lending programs, including the costs of administering ESD grants, and other overhead and indirect costs (i.e., a portion of the rent or utilities, marketing materials, supplies or salaries) associated with the provision of technical and financial assistance.

IV. REQUIRED INFORMATION

Please provide a narrative that includes the following sections in the following order, using the headings listed below.

A. Organization Information

1. General: Describe the following:

- a. The organization's mission and history, including the number of years of providing pre-technical and financial assistance to economically underserved communities, M/WBEs, micro businesses, including start-up firms and expanding businesses.
- b. A plan showing that the organization will have the capacity to operate that it will not be dependent upon assistance solely from the program.
- c. A plan showing how the organization will coordinate and leverage use of assistance from programs with existing non-state funds; at least 25% of matching funds must be secured to leverage grant requests.
- d. The geographic service area(s) and/or targeted populations served by the organization including any emphasis on reaching minority groups, economically underserved communities, particularly households with income of under \$75K, startups, nonemployees firms, expanding businesses, credit risks, other businesses that lack access to credit or are unable to secure access to capital in the traditional market. Please comment on the distribution of clients served across your geographic area and the percentage of your clients that are in distressed and/or highly distressed communities. The types of financial and pre-technical assistance products and services offered and how many clients receive these services each year and how the organization sees that growth in the coming year. Further discuss your offerings for language accessibility for your targeted clients, if appropriate.
- e. The organization's marketing strategy and outreach coordination with other community-based organizations.

Please be specific about how the organization works with other community-based organizations to underserved communities.

- f. The organization's plan to make their services available both in person and remote.
- g. The organization's plan to serve a greater number of clients by leveraging technology and strategic partnerships including addressing ways that the organization intends to grow its programs and technical assistance services, offer new financial products and services to assist clients expand into global markets, and serve new geographic areas or a niche industry. Further, discuss organization's plans and outcomes and their efficiency and effectiveness in utilizing funds requested.
- h. Describe organization's lending portfolio for the last three years, including status (by breaking down types of clients served: individuals versus businesses; M/WBE and non-M/WBE; lending products offered; interest rate percentage charged and any other relevant terms), underwriting practices, loan loss reserve at hand, loan loss ratio for the last three years; delinquency ratios; and current total capital available for lending.
- i. Describe what the organization sees as their greatest challenges in fulfilling the goals of the program, and how they plan to mitigate these challenges to ensure program success.

B. Project Activities, Results, and Implementation

Describe in detail how this grant from ESD would be used:

1. Describe the specific activities that will be undertaken and funded through the project.
 - a. Describe the systems in place to deliver these services and the ways that such financial assistance will support your organization's educational programs, lending, and access to capital activities. Describe the overall financial assistance program as well as the specific ways in which ESD grant funds will be used. If the provision of one-on-one technical assistance and access to financial services to businesses is identified as a measurable goal in section 2.b below, such assistance must be substantive and should include face-to-face meetings. If face to face meetings is not feasible, please discuss how services will be effectively delivered virtually. Assistance should be provided on personal finance topics such as, but not

limited to, savings and debt management, basic banking education, how to open a savings bank account, budgeting, how to make deposits and understanding the cost and benefits of the financial system. How to manage debt, credit repair, access to credit building loans to increase FICO score, budgeting, choosing the right loan for their business, and managing cash flow. Please indicate the number of individuals and businesses to which your organization will provide financial services and financial education, and the percentage of clients that will receive a micro loan after this financial education.

- b. If proposing activities open to the public such as workshops and seminars, describe those specific actions that will be taken, including workshop topics, hours of instruction, specific goals of each activity and outreach to ensure the participation of minorities and women. Efforts that will be taken to continue to engage participants once the event ends, as well as ongoing Program tracking of client intake and outcomes should be provided in the response to the application.
 - c. If requesting funds for institutional capacity, refer to the guidelines set forth in Section III of this RFA and provide the information specified in that section.
 - d. Identify the reasons that your organization requires grant assistance to undertake these activities.
 - e. Identify any other entities involved in the project (other community development organizations; units of local, state, or federal government, etc.) and describe the nature of their involvement.
2. List the specific goals that the organization will achieve as a direct result of the requested grant funding and provide a timeline for the project (See Attached Exhibit D).
- a. Include the measurable outcomes and the economic impact to be achieved as a direct result of ESD grant funding. These goals should be realistic, achievable, timely, and specific based on the applicant's experience in operating as a CDFI. The proposed goals should reflect only the funding being requested. Applicants may also describe goals for the organization as a whole and the ways that ESD's grant funds would contribute to the attainment of these broader goals.
 - b. Describe how these goals compare to the organization's achievements in the past three years.

3. Provide a detailed budget for the project.
 - a. Include funding sources, personnel service costs (with job title and description), consultant fees (identify consultant if known), and a breakdown of all costs related to providing Technical Assistance, or institutional capacity. The bulk of proposed work to be performed should be conducted with Program personnel and not rely mainly on consultants.
 - b. Describe the ways, if any, that ESD's grant funds would leverage other revenue sources.
 - c. Add sources of match and utilization of match into the budget provided. A minimum of 25% non-state sources is required to be provided for any request for funds from this RFA.
4. Provide the following:
 - a. Completed Exhibit A: Cover Sheet
 - b. Complete Exhibit B: Proposal Summary
 - c. Complete Exhibit C: Proposed Budget
 - d. Complete Exhibit D: Project Description – Tasks & Timeline
 - e. Annual Financial statements for the past three years, including a draft of the applicant's internal statements or the most recent interim statements, if annual statements are more than 12 months old.
 - f. Proof of current federal CDFI Certification and/or recertification.
 - g. If the applicant has previously received ESD funding through the CDFI Assistance Fund, attach:
 - i. A copy of the final report (GDA Exhibit B, page 1 of 3 ONLY without the attachments) submitted.
 - ii. An interim Technical Assistance and Lending Report and Institutional Capacity Report (GDA Exhibit G-2) without attachments from any grant disbursement agreement still in effect with a description of the organization's cumulative progress toward meeting goals. If your organization has not yet met 50% of its CDFI Assistance Fund goals, please include a brief narrative explaining why.

V. SELECTION CRITERIA

- A. ESD will balance individual application scores with priorities for geographic distribution across NYS. The evaluation criteria will include the following:
1. Completeness of the application.
 2. Organizational capacity, stability, feasibility, cost effectiveness and impact of proposed activities.
 3. The applicant's record in meeting the performance goals, timelines and reporting requirements established under previous CDFI Assistance Program awards from ESD, if any. ESD may choose not to consider applications from organizations that are not in compliance with the contracting and reporting requirements of previous CDFI Assistance Program awards, or that have substantial funding available through previous awards.
 4. Compliance of the application with the "Guidelines" section and other terms and conditions of this request for applications.
 5. The applicant's operating budget and institutional capacity for using grant funds effectively.
 6. Applicant's ability to leverage other non-state funds.
 7. The applicant must have a physical presence in New York State and 70% of business transactions are conducted within the state.
 8. The applicant's capacity to illustrate a strategic plan and describe how ESD's assistance will help the grantee achieve this plan.
 9. Applicant's ability to serve the unbanked or underbanked individuals to be connected to financial and banking services.
 10. Applicant's ability to sustain and propose a plan to expand a strong lending base, geographic coverage, underwriting capacity, deal-sourcing capacity, and a low default ratio to first time borrowers and entrepreneurs.

B. Additional Considerations:

1. By submitting its application, each applicant authorizes ESD to contact all other persons identified in its application or in any investigation conducted by or on behalf of ESD or the State and obtain the release of pertinent financial and other information, as well as to obtain verification of the information provided by each applicant.
2. ESD will not be held liable for any costs incurred by any applicant for work performed in the preparation and production of an application, nor for any work performed prior to written authorization from ESD to proceed. All applications submitted will become the property of ESD.
3. ESD reserves the right to:
 - a. Reject any or all applications received.
 - b. Award grants in any amount.
 - c. Require the submission of modifications or additions to applications as a condition of further participation in the selection process; and

- d. Amend this request for applications.

VI. SUBMISSION OF APPLICATIONS

- A. Please submit a zip folder including a PDF of each section of the application to CDFIAFS2@esd.ny.gov

Please make sure that all documents submitted adhere to the following naming convention outlined in the example below:

1. OrgName_CDFIAFS_ExhibitA_CoverSheet
2. OrgName_CDFIAFS_ExhibitB_ProposalSummary
3. OrgName_CDFIAFS_ExhibitC_ProposedBudget
4. OrgName_CDFIAFS_ExhibitD_ProjectDescription
5. OrgName_CDFIAFS_FinancialStatement_Year or
OrgName_CDFIAFS_InterimStatement_Year
6. OrgName_CDFIAFS_CDFICertification
7. If the applicant has received ESD funding through the CDFI Assistance Fund, attach the following:
 - a. A PDF copy of the final report (GDA Exhibit B). Please save file as: OrgName_CDFIAFS_Final Report_ExhibitB (CDFIAF2021)
8. Set up in NYS Grants Gateway and confirmation. Please save the file as OrgName_CDFIAFS_GrantsGatewayConfirmation

VII. DEFINITIONS

For the purposes of this Application for Assistance the following words or terms shall mean as follows:

A. Micro Businesses

A micro business shall be deemed to be one which is resident in New York State, independently owned and operated, not dominant in its field with no more of \$250,000 annual revenue and have fewer than 10 employees.

B. Minority Business Enterprise (“MBE”)

A business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing; (iii) an enterprise in which such minority ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) authorized to do business in the State of New York, is organized on a for-profit basis, and is independently owned and operated out of a fixed business location; (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous

year; and (vi) an enterprise that is a small business pursuant to subdivision twenty of this section.

C. Minority Group Member

A United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

D. NYS Basic Banking Account

New York State law requires banks operating in New York to offer consumers a “basic banking account”¹⁰, a low-fee account designated to ensure that all New York consumers can access a safe and affordable bank account with features such as a minimum starting deposit of no more than \$25 and a monthly maintenance fee of no more than \$3¹¹.

E. Women-owned Business Enterprise (“WBE”)

A business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing; (iii) an enterprise in which such women ownership has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (iv) authorized to do business in the State of New York, is organized on a for-profit basis, and is independently owned and operated out of a fixed business location; (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (vi) an enterprise that is a micro business pursuant to subdivision twenty of this section.

E. Nonemployer Firm

A nonemployer is a micro business that has no paid employees. Nonemployer businesses are the primary source of income for 40 percent of their owners and an additional source for the remaining 60 percent. Only about 50 percent of nonemployer business owners spend less than 20 hours a week working for or

¹⁰ SECTION 14-F Power of the superintendent of financial services to require the provision of basic banking services Banking (BNK) CHAPTER 2, ARTICLE 2 | NY State Senate: <https://www.nysenate.gov/legislation/laws/BNK/14-F>

¹¹ 3 NYCRR – Ch. I § 9.3 – Basic Banking Accounts: Required Features: https://www.dfs.ny.gov/apps_and_licensing/banks_and_trusts/other/Application_for_alternative_to_basic_banking_account

managing their business, while 30 percent spend at least 40 hours a week on the business and about 20 percent spend between 20- and 40-hours Source: U.S. Census Bureau, 2012 Survey of Business Owners (SBO).

F. Unbanked

The unbanked are described by the Federal Deposit Insurance Corporation (FDIC) as those adults without an account at a bank or other financial institution and are outside the mainstream for one reason or another. “**Unbanked** households are defined as households in which no member had a checking or savings account at a bank or credit union”¹²

G. Underbanked

The term underbanked refers to individuals or families who have a bank account but often rely on alternative financial services such as money orders, check-cashing services, and payday loans rather than on traditional loans and credit cards to manage their finances and fund purchases. This may be because they lack access to convenient, affordable banking services or because they need or prefer to use alternatives to traditional financial services. “**Underbanked** households are defined as households that have a checking or savings account at a bank or credit union, but have conducted some of their financial services transactions outside of the bank or credit union, by utilizing a non-bank provider. These non-bank providers may provide services or products including money orders, check cashing, international remittances, rent-to-own services, payday loans, pawn shop loans, tax refund anticipation loans, or auto title loans”¹³

H. M/WBE Certification

The official determination by the New York State Division of Minority and Women’s Business Development of a business enterprise as a bona fide minority and/or woman-owned business enterprise.

For more information on M/WBE certification, please see our website at: www.esd.ny.gov/mwbe.html or call (1-800-782-8369) for more information.

I. Technical Assistance

Business technical assistance is provided to an entrepreneur, bank challenged and otherwise underserved individuals to address ongoing or specific challenges or needs, such as financial literacy, financial counseling, the development of a business plan or the resolution of a production or marketing problem. When a business is in formation, monitoring will help define specific and/or ongoing needs early. This assistance often is on a one-to-one basis in a consulting format.

Technical assistance may also be provided to assist clients in obtaining State M\WBE Certification.

¹² 2021 FDIC National Survey of Unbanked and Underbanked Households

- J. Institutional Capacity/ Capacity Strengthening
Institutional capacity building is defined as the provision of technical or material assistance designed to strengthen one or more elements of organizational effectiveness. The elements of organizational effectiveness include governance, management capacity, human resources, financial resources, service delivery, external relations, and sustainability. Examples include the purchase of software, training of staff, conducting research studies for expansion or growth and marketing.
- K. New York Prequalification
The Grants Gateway was established to improve the way grants are administered by the State of New York. Beginning July 31, 2013, all not-for-profit organizations receiving funds from New York State agencies and authorities must be prequalified in Grants Gateway prior to the execution of a contract or a contract amendment. For additional information, please refer to GrantsReform@Budget.ny.gov.

VIII. QUESTIONS

- A. All questions, comments, requests for clarification or any other communication regarding this Application for Assistance must be submitted by email to: CDFIAFS2@esd.ny.gov no later than August 16th, 2023.
- B. In addition, any changes, additions, or deletions to this Request for Application will also be posted on the Contract Reporter, along with the electronic version of this Request for Application. Respondents should note that any necessary clarification must be sought by the deadline for questions set forth in the “Schedule of Dates” section in this Request for Applications.
- C. Applicants are urged to check NYS Contract Reporter frequently for notices of any clarification of or changes, additions, or deletions to this Request for Applications.
- D. For additional information on this Application please see Exhibit E: Frequently Asked Questions.

IX. GENERAL PROVISIONS

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

- A. Amend, modify, or withdraw this RFA.
B. Revise any requirement of RFA.
C. Require supplemental statements or information from any responsible party.
D. Accept or reject any or all responses hereto.
E. Extend the deadline for submission of application hereto.

- F. Negotiate potential contract terms with any applicants to this RFA.
- G. Discussions with any applicant to this RFA to correct and/or clarify application which do not conform to the instructions contained herein.
- H. Cancel, or reissue in whole or in part, this RFA, if ESD determines in its sole discretion that it is in its best interest to do so; and
- I. Extend the term of any agreement on terms consistent with this RFA.

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

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

X. SUBMISSION REQUIREMENTS

A. PROCUREMENT FORMS AND REQUIREMENTS

a. Vendor Responsibility Questionnaire

All Respondents to this RFA 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 RFA, 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 RFA.

To assist in the determination of responsibility, ESD requires that all respondents to this RFA 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 application.

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)."

b. New York State Prequalification System for Grants Contract Vendors

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. The Grants Gateway was established to improve the way grants are administered by the State of New York. Beginning July 31, 2013, all not-for-profit organizations receiving funds from New York State agencies and authorities must be prequalified in Grants Gateway prior to the execution of a contract or a contract amendment.

Based on the above information, you are required to complete the steps outlined below to receive an executed contract or contract amendment. If you are not the appropriate contact for this communication, please forward to the person in your organization responsible for the management of grant funding. Send any questions to Greta Carter-Williams, ESD's program representative, at gcwilliams@esd.ny.gov or email GrantsReform@Budget.ny.gov with Prequalification in the subject line.

Register with the Grants Gateway

1. 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".
2. 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).
3. All registrations must include an Organization Chart to be processed.
4. Mail the completed Registration Form, Organization Chart that shows the Head of your Organization, and Substitute W-9 (if new vendor) to:

Division of Budget - Grants Reform
Agency Building 1 - 5th Floor
Empire State Plaza, Albany, NY 12224

5. 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.
6. Associate your organization with a State agency (ESD) by clicking on Organization(s) and then selecting Organization Information; complete all required fields.
7. Complete the Document Vault by uploading requested documents and answering all questions.
8. Upon completion of the Document Vault, submit it for review and prequalification.

If you believe your organization has submitted its Prequalification application and has submitted any requested documents omitted from your registration, please contact ESD's program representative or the Grants Reform Team by emailing GrantsReform@Budget.ny.gov with Prequalification in the subject line.

c. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR 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 5 NYCRR §§140-145, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and Women-owned Business Enterprises ("MWBE") and the employment of minority group members and women in the performance of ESD contracts.

BUSINESS PARTICIPATION OPPORTUNITIES FOR MWBEs

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

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be

applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent 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 RFA, 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 application, 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 application. 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 application.

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 application in response to this solicitation, the respondent agrees with all of the terms and conditions in [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 application.

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

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

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

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

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

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

Form OCSD-2: <https://esd.ny.gov/sites/default/files/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%20Utilization%20Plan.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%20-%20Contractor%20Compliance%20Payment%20Report.pdf>

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

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

Article 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. For purposes of this solicitation, ESD will establish a goal based on the scope of work and project description identified in the RFA response. 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 application.

- E. ESD may disqualify a Bidder's bid or application 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 regard 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.

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

d. INSURANCE REQUIREMENTS

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

1. Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate.
2. In the event that you are using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million.
3. Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits.
4. Must show evidence of Disability insurance coverage at State statutory limits.
5. Professional Liability (Errors & Omissions) Insurance of \$1 million.
6. Empire State Development 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 Empire State Development.