



**Empire State  
Development**

# **REQUEST FOR APPLICATIONS ENTREPRENEURSHIP ASSISTANCE CENTERS - REIMAGINE WORKFORCE PREPARATION GRANT PROGRAM**

**Issued: December 8, 2022**

Designated Contacts for this Procurement:

Primary Contact: John F. Discolo, Director, Procurement  
Secondary Contact: Ralph Volcy, Director, Procurement

All contacts/inquiries shall be made by email to the following address:  
[EACWorkforceGrantRFP@esd.ny.gov](mailto:EACWorkforceGrantRFP@esd.ny.gov)

This Request for Applications (“RFA”) is posted on the Empire State Development website: <https://esd.ny.gov/doing-business-ny/requests-proposals>

**APPLICATIONS DUE DATE AND TIME:  
On or before January 12, 2023, by 3:00 PM EST.**

**Please submit your proposal to:**

<https://www.dropbox.com/request/3G09GbpGgBtxT8v72vO0>

**Late applications will not 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. Project Summary

Up to \$1,368,000 in grant support is available to New York State Entrepreneurship Assistance Centers (EACs) to train and support entrepreneurs across New York State. COVID-19 displaced a significant portion of the workforce in New York State. To support individuals looking to reengage in the economy as entrepreneurs Empire State Development (ESD) offers the EAC - Reimagine Workforce Preparation Grant Program Request for Applications (“RFA”).

### B. Request for Application Schedule

Item	Date
Release of Request for Applications	December 8, 2022
Deadline for Submission of Questions	December 15, 2022, 3PM EST
Deadline for ESD to Respond to Questions	December 22, 2022
Submission of Applications	January 12, 2023, 3PM EST
Anticipated Announcement of Selections	February 17, 2023
Anticipated Contract Start Date	March 1, 2023

## II. Project

### A. Program Goals and Objectives

COVID-19 displaced a significant portion of the workforce in New York State. To support displaced individuals looking to reengage in the economy as entrepreneurs, ESD offers the Reimagine Workforce Preparation Grant Program RFA. Under this RFA, ESD anticipates selecting up to four (4) applicants to provide entrepreneurial training and follow-up support to individuals impacted by COVID-19 looking to start a business in New York State. Through this program, it is anticipated that 2,000 displaced workers, or 500 per award recipient/grantee, will be trained over the award period. Individuals trained through short courses and longer structured training classes or bootcamps will count towards this total goal.

Applicants must be able to meet the following objectives:

- Provide basic entrepreneurial training to displaced individuals interested in starting a business, or partner with organizations that provide this service;
- Provide basic or specific business topic courses, webinars, workshops and seminars to meet the individuals, entrepreneurs and/or small businesses’ needs;
- Provide follow-up to trained individuals to support the startup and growth of new businesses;
- Leverage strategic partnerships, including the financing programs to support entrepreneurs; and
- Increase awareness of other programs and additional support available for entrepreneurs and small businesses.

Applicants must address the following tasks:

- **Task I: Training**  
Applicants must provide a detail process and summary of the 150-hours of business plan training; basic or specific business topic courses, webinars, workshops and seminars; and one-on-one business counseling that will be provided to individuals, entrepreneurs and/or small businesses. The application must explain:
  - Plan to reach targeted groups;
  - Training topics and summary, including homework assignments;
  - Manner in which training will be offered;
  - Partnerships that will be leveraged to perform certain objectives or tasks; and
  - Strategy to develop new training curriculum, webinar, workshop or seminar topics, if necessary.

Applicants are expected to offer six business plan training cohorts and basic or specific business topics courses, webinars, workshops and seminars over the course of the award period. Training can be offered virtually and/or in-person.
- **Task II: Follow-up Support**  
Applicants are expected to offer follow-up support to trained individuals that are interested or are in the process of starting an entrepreneurial project. Types of follow-up support can include: one-on-one business counseling, office hours, introductions to relevant resources, mentoring or building mentoring pathways, developing a strategy or roadmap, accessing financing, networking opportunities, etc. Successful applications will showcase how the applicant plans to support new entrepreneurs after completing their training.
- **Task III: Partnerships**  
Applicants should outline any strategic partnership, the role that partnership will play, and how the partnership will be incorporated and engaged in completing the tasks of this program.

**B. Eligibility Requirements**

To be eligible to receive grant proceeds from ESD, an applicant must be a designated EAC in good standing with the State of New York and ESD.

**C. Grant Funding and Project Timeline**

i. **Grant Amount and Completion Date**

Grant awards are as follows:

	<b>Award Up To</b>	<b>Expected Completion Date</b>
<b>Reimagine Workforce Preparation Grant Program</b>	\$342,000	July 15, 2024

ESD reserves the right to award grants in amounts greater or less than the above listed figures and/or at a varying schedule depending on the number and quality of applications received and other considerations set forth in this RFA.

There is no cost-match requirement associated with this grant.

ii. **Eligible and Ineligible Expenses**

Eligible activities include but are not limited to:

- Marketing and outreach to increase awareness of the entrepreneurial training program;
- Planning and executing training curriculum, courses, webinars, workshops and seminars (may be focused on a specific industry area or more general training);
- Planning and offering follow-up support, including one-on-one business counseling, networking events and conferences, etc.; and
- Collecting and reporting required metrics and data to determine the effectiveness of various activities supported under this program

The following limitations apply to this RFA:

- Indirect costs are PROHIBITED.
- Expenses must be relevant and justifiable to the project(s) outcome.

Budget template:

USE OF FUNDS	ESD Funds	TOTAL Across
Salaries		\$
Fringes		\$
Consultants Fees		\$
Technical Assistance Costs		\$
<b>TOTAL PROJECT COST</b>	<b>\$</b>	<b>\$</b>

ESD has the right to review all expenses and deny the reimbursement of any expenses that are deemed ineligible.

#### **D. Data Collection**

Applicants awarded grant funding will be required to track and record information relevant to the success of this grant. Data will be made available to ESD as requested. Data points to be captured and tracked include:

- Individuals participating and the training they received;
- Individuals participating in follow-up activities;
- Survey responses from trainees;
- Businesses formed; and
- Publishing training programs on Credential Engine; and
- Other data impact points are at the discretion of ESD.

### **III. Application Information**

Please provide a narrative that includes the following information in the following order using the headings listed below. Submitted applications are expected to be clearly written. If applications exceed the page limits and/or include materials not requested by the RFA, ESD will remove the extra pages and/or materials prior to the review. During the review process, applicants may be requested to submit additional written documents to answer questions or provide clarification of issues raised during the review process.

Assemble the application in the following order:

1. Cover page
2. Table of Contents
3. Glossary of Terms Used

4. Executive Summary (1 page maximum)
5. Proposal (8 page maximum)
  - a. Organization's experience and qualification
    - i. Demonstrate the knowledge, expertise and experience of cultivating and supporting entrepreneurs. Offer an action plan for achieving the program goals.
    - ii. If possible, offer strategic partners and how they strengthen the organization.
  - b. Project readiness and workplan
    - i. Demonstrate staff's knowledge, ability and role. Respondent should also provide a detailed plan identifying any and all subcontracting opportunities associated with this project.
  - c. Services to entrepreneurs and timeline
    - i. Give details about how training and support will be developed, marketed, implemented, and tracked.
  - d. Use of funds

#### **IV. Review Criteria and Process**

ESD will balance individual application scores.

For the review of eligible applications, ESD has established the following criteria to be applied in accordance with the review process set forth in Section IV. B. In addition to addressing the review criteria stated below, refer to the application instructions in Section III of this RFA for specific items that must also be addressed.

##### **A. Review Criteria**

1. Organization, experience and qualifications (20 points)
  - a. Knowledge and experience providing entrepreneur training and support for new and/or early-stage entrepreneurs. (10 points)
  - b. Strategic partners compatibility and engagement. (10 points)
2. Project readiness and work plan (20 points)
  - a. Overall work/action plan. (10 points)
  - b. Measurable deliverables and completion dates. (10 points)
3. Services to entrepreneurs and timeline (30 points)
  - a. Outreach plan to reach and engage trainees. (10 points)
  - b. Identification of planned services and activities; use of third-party subcontractors or partners (if applicable) and their respective roles. (10 points)
  - c. Plan to capture metrics, data and program feedback. (10 points)
4. Use of Funds (15 points)
  - a. Quality of the applicant's justification and rationale for the use of the requested funds.
5. Proposal Clarity (5 points)
  - a. Quality of proposal's organization, clarity and adherence to page limitations.
6. Diversity Practices Scoring (10 points)
  - a. ESD's Office of Contractor and Supplier Diversity will score each application for Diversity Practices. Up to 10 points will be awarded based upon the contents of the

**Diversity Practices Questionnaire - Addendum “A,”** submitted by each Respondent to the RFA.

**B. Review Process**

Reviewers will consist of ESD staff. The reviewers will adhere to the process described in this section and will apply the review criteria detailed above. ESD will limit the number of proposals a reviewer is required to evaluate. Each proposal will be reviewed and scored by at least two reviewers.

Scoring: Reviewers will independently evaluate and assign a preliminary score to proposals that have been accepted by ESD. The *preliminary scores* for a proposal will be combined to provide an *initial average score* for that proposal.

After the initial average scores are calculated, reviewers will convene as a group to review these preliminary scores and discuss the proposals in accordance with the review criteria. At the conclusion of the discussions, each reviewer will individually provide a *final score* for each proposal based upon the panel’s discussions.

In the event that two or more proposals have the same final score, and the score is high enough for the applicants to be considered for funding, the review panel will hold an additional session to review only those affected proposals. The review panel will deliberate until there is a consensus regarding the selection. At times, it may be necessary to conduct interviews in order to determine the selected applicant.

ESD reserves the right to reject any and all applications. ESD may recall this RFA at any time prior to award announcement and may also reject proposals for deficiencies; waive technicalities, irregularities, and omissions; or solicit new proposals. ESD reserves the right to act in accordance with the best interests of the people of New York State in its interpretation of this RFA.

Applicants and/or their surrogates are prohibited from contacting any ESD staff to advocate on behalf of a proposal submitted in response to this RFA. Violation of this restriction will disqualify an applicant’s proposal from the competition.

**V. SUBMISSION OF APPLICATIONS**

All applications should be submitted via email to:

<https://www.dropbox.com/request/3G09GbpGgBtxT8v72vO0>

**no later than 3PM EST on January 12, 2023.** Your subject line should state: “[*Name of Applicant*] – RFA, Entrepreneurship Assistance Centers – Reimagine Workforce Participation Grant Program”.

**VI. QUESTIONS**

All questions, comments, requests for clarification or any other communication regarding this RFA must be submitted by email to [EACWorkforceGrantRFP@esd.ny.gov](mailto:EACWorkforceGrantRFP@esd.ny.gov) no later **December 15, 2022, by 3PM EST.** Your subject line should state: “[*Name of Applicant*] – RFA Inquiry, Entrepreneurship Assistance Centers – Reimagine Workforce Participation Grant Program”.

## VII. GENERAL PROVISIONS

The issuance of this RFA and the submission of a response by an applicant 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 RFA;
- ii. revise any requirement of this RFA;
- 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 RFA, 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 RFA.

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 RFA will be at the sole cost and expense of the Respondent.

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

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

## VIII. SUBMISSION REQUIREMENTS

### **Procurement Forms and Requirements**

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

1. Conflict of Interest
2. 139 J&K
3. Vendor Responsibility Questionnaire
4. Insurance Requirements
5. Non-Discrimination and Contractor & Supplier Diversity Requirements
6. W-9

### **1) Conflicts of Interest**

Respondent must attest it has read, understood and will comply with the following provisions <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June->

[2019.pdf](#). ESD shall have the right to disqualify any respondent to this RFA or terminate any contract entered into as a result of this RFA should ESD determine that the Respondent has violated any of these requirements.

**A. Gifts and Offers of Employment:** Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this procurement, offer to any employee, member or director of ESD, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the offer was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director. Respondent may not make any offers of employment or discuss the possibility of such offers with any employee, member or director of ESD who is involved in this procurement and/or resulting contract negotiation within at least 30 days from the time that the employee's involvement in this matter closed.

**B. Disclosure of Potential Conflicts:** Respondent shall disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers/employers of the Respondent or former officers and employees of ESD, in connection with your rendering services enumerated in this RFA. If a conflict does or might exist, Respondent must describe how it would eliminate or prevent it.

**Disclosure of Ethics Investigations:** Respondent must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any ongoing investigation or disciplinary action by the New York State Commission on Public Integrity or its predecessor State entities (collectively, "Commission"), and if so, a description must be included indicating how any matter before the Commission was resolved or whether it remains unresolved.

## **2. State Finance Law Sections 139J and 139K forms**

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFA. These Procurement Requirements: (1) govern permissible communications between potential Respondents and ESD or other involved governmental entities with respect to this RFA; (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 RFA. Compliance with the Procurement Requirements requires that all communications regarding this RFA, from the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed above; the completion by Respondents of the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD website under "RFPs"); and periodic updating of such forms during the term of any contract resulting from this RFA.



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

[https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF\\_Law139\\_JK.pdf](https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf).

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by 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 RFA.

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](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.

### **3. 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 proposal.

To enroll in and use the Vend-Rep System, see the System Instructions available at [www.osc.state.ny.us/vendrep](http://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](mailto: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](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)."

#### **4. Insurance Requirements**

The prospective will be expected to show evidence of the following insurance requirements, (at a minimum and to the extent applicable) as listed below:

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate
  - o The NYS Urban Development Corporation (d/b/a Empire State Development) must be named as an "additional insured" on a primary and non-contributory basis on the policy
  - o The policy above should include a waiver of subrogation in favor of the NYS Urban Development Corporation (d/b/a Empire State Development)

#### **5. 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 may establish a goal for MWBE participation based on the scope of work and project description identified in the RFA response. Such contracts may 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](mailto: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](mailto: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 it 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 BUSIENSS 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 subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

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

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

Form OCSD-2: <https://esd.ny.gov/sites/default/files/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](mailto:OCSD@esd.ny.gov).

## **PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLE 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](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](mailto: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 payment. 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 a 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 SDVOB identified within the SDVOB Utilization Plan, during the performance of the Contract Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

#### **Required Good Faith Efforts**

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

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

#### **Monthly SDVOB Contractor Compliance Report**

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

**6. W-9 Form**

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



## **Glossary of Terms Used Throughout the RFA**

The following definitions apply to the terms used in this RFA. Terms defined herein are capitalized throughout the text of the RFA. Terms used within a definition that are also defined in this appendix are noted in italics.

**Applicant:** An eligible Partner, Partner Organization, University/College, or University/College-Affiliated Organization, or a collection of such institutions designated as an EAC under this RFA.

**Authorized Organizational Representative:** The institution's duly authorized representative with authority to enter legal agreements on behalf of, and commit resources of, the organization.

**Award Recipient/Grantee:** An Applicant that is selected for award by ESD under this RFA.

**Cost Share Funds:** A non-reimbursable component of a project's total cost that is reflective of the Applicant's and industry's commitment to the program. Refer to Section II.C. of this RFA for specific Matching Funds requirements.

**ESD:** Empire State Development is the umbrella organization for economic development activity in New York State involving both Department of Economic Development (DED) and a public authority in the form of Empire State Development Corporation; however, awards (contracts) through this competition will be administered by (through) DED.

**New York State Company, New York Company or Company in New York:** A for-profit enterprise with a permanent place of business located in New York State employing a full-time workforce. The company's New York facility must either be (1) the intended recipient of the Organization's assistance or (2) directly benefit from the Organization's assistance. The Organization's assistance must also demonstrably enhance the company's economic activity in New York.

**Small New York State Company:** A New York State Company with its principal place of business in New York that employs 100 or fewer persons in total, including any parent companies or subsidiaries.

## Required Forms

- RFA Application

### **Administrative Proposal (Contractual Requirement Forms)**

**1. Conflict of Interest Form**

<https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>

**2. 139 J&K**

[https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF\\_Law139\\_JK.pdf](https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf)

**3. Vendor Responsibility Questionnaire –**

<https://www.osc.state.ny.us/state-vendors/vendrep/vendor-responsibility-forms>

**4. Non Discrimination and Contractor and Supplier Diversity Forms -**

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

**5. W9 Form -**

<https://www.irs.gov/pub/irs-pdf/fw9.pdf>

**Diversity Practices Questionnaire - Addendum “A” (Attached)**