



**Empire State
Development**

**Request for Proposals (RFP)
For
Insurance Brokerage Services**

ISSUE DATE: October 20, 2017

**PROPOSAL DUE DATE AND TIME: November 15, 2017 12:00 PM EST
(Late proposals cannot be accepted)**

IMPORTANT NOTICE: A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until approval of the Contract. Respondents are prohibited from contact related to this procurement with any New York State employee, *other than the designated contacts listed below*. Please refer to the following for additional information.

<http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>).

Designated Contacts for this Procurement:

Primary Contact: John F. Discolo

Secondary Contact: Jolyon Handler

Mentor-Protégé Contact: Brian Ansari

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

**This RFP is posted on the Empire State Development website:
<https://esd.ny.gov/doing-business-ny/requests-proposals>**

**Empire State Development
RFP for Insurance Brokerage Services**

Table of Contents

I. INTRODUCTION..... 3

II. BACKGROUND..... 3

III. SCOPE OF WORK..... 5

IV. SCHEDULE OF ANTICIPATED DATES..... 8

V. QUALIFICATION REQUIREMENTS 8

VI. FEE PROPOSAL 9

VII. SELECTION CRITERIA 9

VIII. SUBMISSION OF PROPOSALS 10

IX. GENERAL PROVISIONS 12

X. PROCUREMENT FORMS AND REQUIREMENTS..... 12

Empire State Development RFP for Insurance Brokerage Services

I. INTRODUCTION

This Request for Proposals (RFP) furnishes interested parties with relevant information to enable them to prepare and submit proposals for consideration by Empire State Development (“ESD”) to satisfy a need for a qualified **Insurance Broker/Risk Management** firm with a demonstrated history and expertise in providing insurance placement and risk management services to clients similar in nature and mission to that of ESD and its subsidiaries. The selected firm will be expected to assess ESD's insurance needs and recommend the appropriate insurance coverage and deductibles to ensure the lowest possible cost to ESD. In addition, ESD's insurance program must be administered and maintained at the most reasonable cost to ESD. Responding Insurance Broker/Risk Management firms must provide evidence of professional experience, qualifications, capability, and personnel to perform these services.

This RFP contains instructions for submitting RFP proposals and related materials, a description of the responsibilities and tasks to be provided, qualification requirements for consideration, RFP response evaluation criteria, and other requirements to be met by each proposer.

II. BACKGROUND

The New York State Urban Development Corporation, doing business as Empire State Development (“ESD”), was formed by a 1968 legislative act to address conditions of unemployment and underemployment, which impeded the economic and physical development of municipalities, increased the burden on the State, and adversely affected the welfare and prosperity of New York State. ESD and its subsidiary corporations seek to promote a vigorous and growing economy, prevent economic stagnation, encourage the creation of new job opportunities, increase revenues to the State and its municipalities, and achieve stable and diversified local economies. To accomplish this, ESD leverages private investment with loans, grants, tax credits and other forms of financial assistance, assists with site assemblage, and provides targeted relief from legal and regulatory requirements through its participation in projects, programs, and other initiatives.

ESD's primary subsidiaries are summarized below as follows:

- **New York Convention Center Development Corporation (CCDC)** – The New York Convention Center Development Corporation's purpose is to plan, design, construct, and develop the Jacob K. Javits Convention Center (“Javits”) on the west side of Manhattan. Since opening in 1986, Javits has been New York City's primary venue for large conventions, exhibitions, and major trade shows. Javits has contributed to both the City and State economy, while stimulating direct and indirect employment, economic activity, and tax revenues. Currently, Javits is undergoing a \$1.5 billion expansion project to increase its event space by more than one million square feet, thereby creating a new state-of-the-art facility able to attract the world's best conferences, events, trade shows and conventions. ESD currently maintains builder's risk, owner's interest, and professional liability insurance policies for CCDC. There is a stand-alone casualty insurance program in place through the developer for CCDC for the Transformer Yard and Javits expansion project. All insurance for the Javits expansion project is in place and, at this time, we do not expect to purchase additional insurance for the project.
- **Erie Canal Harbor Development Corporation (ECHDC)** – The Erie Canal Harbor Development Corporation supports and promotes the creation of infrastructure and public activities at Canalside, and the Outer Harbor, located in Buffalo, New York. These locations attract critical

**Empire State Development
RFP for Insurance Brokerage Services**

mass, private investment, and enjoyment of the waterfront by local residents and tourists in Western New York. All insurance for this subsidiary is covered by ESD's corporate insurance program.

- **Harlem Community Development Corporation (HCDC)** – The Harlem Community Development Corporation formulates policies, partnerships, and revitalization initiatives to promote economic growth in Harlem. HCDC's primary focus is on commercial development, planning and development, residential development, and the Weatherization Assistance Program. There is a separate insurance program placed by the developer for the revitalization and redevelopment of the Victoria Theater. All other HCDC programs are covered by ESD's corporate insurance program.
- **Lower Manhattan Development Corporation (LMDC)** – LMDC's mission is to revitalize lower Manhattan. It works in cooperation with its public and private sector partners to coordinate long-term planning for the World Trade Center site and surrounding communities, while pursuing initiatives to improve the quality of life in lower Manhattan during the revitalization effort. All insurance for this subsidiary is covered by ESD's corporate insurance program.
- **Moynihan Station Development Corporation (MSDC or Moynihan)** – MSDC is responsible for redeveloping the James Farley Postal Service facility (Farley Building), into a modern transportation hub. The Moynihan renovation is \$1.6 billion project that will dramatically modernize, upgrade and redesign America's busiest transit hub into a world-class facility. ESD maintains general liability insurance coverage as owner of the Farley Building and maintains professional and environmental liability insurance policies for the renovation project. The developer has a separate insurance program for the redevelopment of the Farley Building. All insurance for the Moynihan Train Hall project is in place and, at this time, we do not expect to purchase additional insurance for the project.
- **USA Niagara Development Corporation (USAN)** – USAN is primarily responsible for overseeing economic development initiatives by leveraging investment and renewal of the tourism industry in Niagara Falls. All insurance for this subsidiary is covered by ESD's corporate insurance program.

ESD is responsible for maintaining insurance coverage to ensure the protection of its Board members, employees, and assets, as well as those of its subsidiaries. ESD has insurance policies with several insurance carriers to maintain an insurance program with possible protection and pricing for all parties involved. ESD's current risk profile includes the following:

- ESD is currently staffed with 362 full-time employees and leases and/or owns five (5) automobiles that are available for use by selected staff members.
- ESD leases and/or owns approximately 153 properties (See Appendix "B"); and
- ESD's Real & Personal property has an estimated value of \$24 million.

**Empire State Development
RFP for Insurance Brokerage Services**

The following is a summary of ESD’s current insurance program.

<u>Line of Insurance</u>	<u>Insurance Policy Limits</u>
Directors & Officers Liability / Employment Practices Liability	\$3 million aggregate coverage/shared limits
Commercial General Liability	\$1 million per occurrence/\$2 million general aggregate
Workers' Compensation	Workers' Compensation NYS Statutory Limits Employers Liability Limits: \$1,000,000 Bodily Injury each Accident \$1,000,000 Bodily Injury by Disease – Policy Limit \$1,000,000 Bodily Injury by Disease – Each Employee
Excess Umbrella Liability	\$30 million general aggregate
Real & Personal Property	\$24 million total coverage
Automobile Liability	\$1 million aggregate coverage/ \$1 million per occurrence
Employee Crime & Dishonesty	\$5 million per occurrence

The proposed insurance broker/risk manager contract term will be for five (5) years. The intent is to begin the term of the contract on December 1, 2017, and end on November 30, 2022, subject to change, if needed.

III. SCOPE OF WORK

This section details the insurance and risk management services the successful Proposer (“Broker”) will provide ESD under the contract awarded from this RFP. The selected Broker’s responsibilities and tasks shall include, *but are not limited to*, the following:

A. Broker Services

1. Assign experienced staff immediately upon selection to assess ESD’s current insurance program and insurance requirements. The Broker’s primary account representatives shall be reasonably available to ESD staff to address questions related to this account.
2. Review ESD’s current insurance policies to assess sufficiency of insurance limits and adequacy of coverage required to protect ESD from reasonable risks, providing the best balance of minimizing risk and insurance premiums.

**Empire State Development
RFP for Insurance Brokerage Services**

3. Advise ESD of recommended insurance policy changes and considerations, insurance policy renewal, as well as any additional insurance coverage.
4. Work with ESD to organize, develop, and present ESD's operations and company risk profile and insurance coverage requirements to insurance underwriters.
5. Evaluate insurance underwriter bids and present ESD with a package of insurance policy terms, conditions, and premiums that best reflect its goals and objectives, including: (1) a narrative describing competitive bidding (2) a matrix comparing insurance policy proposals, and (3) recommendations regarding insurance carriers, coverage limits, premiums, terms, conditions, and risk exposure.
6. Assist with preparation and presentation of ESD Board materials.
7. Negotiate insurance policy terms prior to binding coverage, keeping ESD fully informed of the marketing process. No insurance coverage, terms, or conditions may be bound without ESD's prior written authorization.
8. Present renewal quotes at least thirty (30) days prior to the April 1 insurance policy renewal.
9. Review proposed insurance policies and endorsements for accuracy and conformity to specifications and negotiated coverage. As ESD operations change, identify new issues, exposures and potential gaps in coverage, keeping ESD informed of significant insurance matters that will impact ESD's risk exposure and insurance program.
10. Advise on ESD's insurance requirements for its major construction projects to ensure that adequate insurance coverage is provided by ESD and the developer.
11. Recommend standard insurance specifications for all of ESD's procurement documents.
12. Review and advise on appropriate insurance terms and requirements for all ESD contracts.
13. Review ESD's insurance program to ensure that ESD and its contractors maintain appropriate levels of insurance and notify ESD of any new developments in the insurance industry that may impact its insurance coverage.
14. Recommend a plan for ESD's insurance program renewal/marketing, including timelines and assignments, at least 120 days prior to ESD's April 1 policy expiration.
15. Approximately one month after ESD's new insurance policies are bound, provide a complete summary of ESD's insurance program, including insurance policy limits, terms, premiums, deductibles, insurance carrier, and any other relevant information for each insurance policy.

**Empire State Development
RFP for Insurance Brokerage Services**

16. Provide additional risk management and insurance consultation services and special projects, as requested.

B. Claims Services

1. Provide an experienced, dedicated insurance claim expert to assist ESD with reviewing and managing its insurance claims.
2. Notify insurance carriers of all potential and actual insurance claims against ESD and its affiliates.
3. Address emergency mitigation procedures for property related claims.
4. Monitor insurance claims to ensure that the carrier handles all claims properly and in a timely manner
5. Advocate for ESD on any disputed or problem insurance claims.
6. Meet quarterly with ESD and respective carriers to review all open insurance claims and settlements.

C. Administrative Services

1. Ensure insurance carriers issue insurance policies and endorsements in a timely manner.
2. Provide ESD with binders with all new insurance policies on a timely basis.
3. Deliver all insurance policies to ESD within 60 days after the insurance coverage is bound on April 1.
4. Provide ESD detailed, accurate invoices with rating adjustments, dividends, and other factors impacting the policy premiums, fees/commissions, and other policy expenses.
5. Provide insurance certificates to third parties on a timely basis.
6. Conduct ESD property inspections and/or surveys to recommend operational and equipment changes that may lower insurance premiums.
7. Review ESD's written loss prevention plan to identify any actions to deduce ESD's risk exposure.

**Empire State Development
RFP for Insurance Brokerage Services**

IV. SCHEDULE OF ANTICIPATED DATES

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

<u>Milestone</u>	<u>Date and Time</u>
Release of RFP	October 20, 2017
Deadline for Submission of Questions	October 27, 2017 at 5:00 PM EST
Deadline for ESD to Respond to Questions	November 3, 2017 at 5:00 PM EST
Submission of Proposals (date and time)	November 15, 2017 at 12:00 PM EST
Interviews (if necessary)	Week of November 27, 2017

ESD reserves the right, at its sole discretion, to adjust and/or modify this schedule as it deems necessary. Notification of changes in connection with this RFP will be made available to all interested parties via ESD's website at <http://esd.ny.gov/CorporateInformation/RFPs.html>.

V. QUALIFICATION REQUIREMENTS

The proposal must address and demonstrate your ability to comply with each of the items identified below.

1. Demonstrate at least five (5) years of successful similar brokerage experience with government clients and/or large-scale real estate development clients, and provide at least three (3) references, with contact information.
2. Demonstrate the ability to access insurance markets with sufficient market capability to participate in ESD's insurance program.
3. Demonstrate the ability to identify risk, recommend appropriate insurance coverage and limits, and analyze losses to provide the most cost effective and comprehensive insurance program for clients similar to ESD.
4. Demonstrate at least five (5) years of providing expert loss control and insurance claims support services for a portfolio of government clients and/or large-scale real estate developments clients.
5. Provide information about the history and organization of your firm, including the number of employees and number of offices and locations.
6. Describe the staff that will be designated to ESD's insurance program and the services that they will provide. If you plan to use other firms as partners or subcontractors, please provide a profile of their staff and the services that they will provide.

**Empire State Development
RFP for Insurance Brokerage Services**

7. Name the principal contact and other key personnel that will be primarily responsible for servicing ESD's insurance program. Please include their addresses, email addresses, and telephone numbers.
8. Provide an overview of your marketing strategy for ESD's insurance program.
9. Please describe in detail how you would provide all the insurance brokerage services required by ESD.
10. Provide a detailed technical plan for accomplishing the work with the responsibilities and task descriptions in Part III ("Scope of Work") as your reference point.
11. Provide a copy of your firm's audited financial statements for the most recent fiscal year.

VI. FEE PROPOSAL

Please provide a complete fee schedule for your brokerage, administration and claims services. All fees and commissions must be identified separately from the insurance policy premiums.

VII. SELECTION CRITERIA

The selection process will begin with the review and evaluation of each written RFP response. The purpose of this evaluation is to: (1) examine the responses for compliance with this RFP, and (2) identify the firms that have the ability to meet the scope of services required by ESD at competitive rates.

A committee of ESD staff will evaluate the RFP proposals based upon the criteria for selection set forth below, and the qualification requirements in Section V.

ESD reserves the right to interview any or all of the proposers. The purpose of the interview may be to review the proposer's ability to provide the required services, and how specific services will be furnished.

Proposals that meet all the mandatory qualifications as outlined within this RFP will be evaluated and scored by ESD staff based upon the following selection criteria:

1. Servicing Capabilities (30%)

Each proposer will be evaluated on its qualifications pursuant to this RFP and demonstration of its ability to provide the insurance broker services included in this RFP.

2. Relevant experience of Personnel assigned to account (20%)

Each proposer will be evaluated on to its organizational support and experience of staff assigned to servicing the ESD Insurance Program.

3. Clientele with comparable business experience/operations (20%)

**Empire State Development
RFP for Insurance Brokerage Services**

Each proposer will be evaluated on specific examples of insurance services provided to government clients and/or large-scale real estate developments clients with operations comparable to ESD.

4. Fee Structure (25%)

Each proposer will be evaluated on its broker, claims and administrative services fee structure, as well as any other relevant fees.

5. MWBE Mentorship (5%)

Respondents will be evaluated for MWBE mentorship based on their participation in a Mentor-Protégé Relationship, approved by the New York State Department of Economic Development's Division of Minority and Women's Business Development ("Division"), with a Minority or Women-owned Business Enterprise certified as such by the Division. (See Attached Appendix "A" for sample a Mentor-Protégé Agreement).

VIII. SUBMISSION OF PROPOSALS

All Proposals must be delivered to the below address by November 15, 2017, 12:00 PM EST. Please provide six (6) printed copies of your proposal to the address below and one electronic copy in a flash drive to:

**Empire State Development
633 Third Avenue - 35th Floor
New York, New York 10017-8167
Attention: John F. Discolo
RFP: ESD Insurance Brokerage Services**

All questions, comments, requests for clarification or any other communication regarding this RFP must be submitted in writing *no later than October 27, 2017 at 5:00 P.M. EST* by email to: ESDINSURANCEBROKER@esd.ny.gov. Answers will be posted no later than November 3, 2017 via ESD's website: <http://esd.ny.gov/CorporateInformation/RFPs.html>.

In addition, any changes, additions or deletions to this RFP will also be posted on ESD's website, along with the electronic version of this RFP. Respondents should note that any necessary clarification must be requested by the deadline for questions set forth in the "Schedule of Anticipated Dates" section in this RFP.

Respondents are encouraged to check ESD's website frequently for notices of any clarification of or changes, additions, or deletions to this RFP. It is the responsibility of the Proposer to periodically check the website for any new information or addenda to the RFP.

OTHER THAN THE CONTACT WEB ADDRESS IDENTIFIED ABOVE, PROSPECTIVE RESPONDENTS SHALL NOT APPROACH ESD EMPLOYEES DURING THE RESTRICTED RFP PERIOD PROCESS ABOUT ANY MATTERS RELATED TO THIS RFP OR ANY QUALIFICATIONS SUBMITTED PURSUANT THERETO.

It is the responsibility of each individual or firm to ensure timely submission of its proposal. Proposals submitted after the scheduled submission deadline cannot be accepted. Flash drives will not be considered

**Empire State Development
RFP for Insurance Brokerage Services**

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

By submitting a proposal, each respondent authorizes ESD to contact any and all other persons identified in its Proposal or in any inquiry conducted by or on behalf of ESD, and to obtain the release of pertinent financial and other information, as well as to obtain verification of the information provided by each respondent.

ESD will not be held liable for any costs, including travel expenses, incurred by any respondent for work performed in the preparation and production of a submitted proposal, including any requests for additional information, interviews or negotiations, or any work performed prior to written authorization from ESD to proceed. All proposals submitted will become the property of ESD.

ESD shall act as the sole judge of the content of the proposals submitted, may negotiate an agreement with any or no respondent, or may waive any informalities or irregularities. Issuance of this RFP and receipt and evaluation of responses do not obligate ESD to undertake any action. ESD will evaluate proposals and may interview one or more respondents. Key personnel and staff assigned to the engagement must be present at any interview. ESD reserves the right to interview some, none, or all respondents as it deems appropriate. ESD's request for an interview shall not constitute acceptance of a proposal. ESD reserves the right to request "best and final offers" or to conduct other additional competitive proceedings with respect to this RFP. ESD staff will recommend contract award to ESD Directors at a regularly scheduled ESD Board meeting.

Every respondent to this RFP should submit a proposal which clearly and concisely provides a description of the proposer's ability to meet the RFP requirements. Emphasis should be concentrated on conformance to the RFP instructions and requirements, as well as completeness and clarity of its proposal response. The respondent is advised to thoroughly follow all the RFP instructions. Proposals that do not comply with these instructions or do not meet the full intent of all the RFP requirements may be subject to reduced scoring during the evaluation process or may be deemed non-responsive.

Information provided by references may be used by ESD for proposal evaluation purposes. ESD may request additional information from references regarding the responder's quality of service, ability to perform the required RFP services, and responsiveness to the client. ESD reserves the right to deploy, at its sole discretion, a variety of communication methods to contact references.

The respondent is required to provide the information listed below. The purpose of the Proposal is to provide respondents with an opportunity to demonstrate their qualifications, competence, and capacity to undertake the engagement described herein, in a manner which complies with applicable laws and regulations, and the requirements of the RFP. No information is required beyond what is specifically requested. The Corporation requests that all Technical Proposals be bound and organized with dividers identified to match the specific information requested below:

- A. Table of Contents
- B. Firm Experience and Qualifications
- C. Staff Experience and Qualifications
- D. Project Plan and Approach

**Empire State Development
RFP for Insurance Brokerage Services**

- E. Estimated Cost
- F. Mentor-Protégé Agreement Approved by the Division (if applicable)

IX. GENERAL PROVISIONS

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

1. Amend, modify or withdraw this RFP;
2. Revise any requirement of this RFP;
3. Require supplemental statements or information from any responsible party;
4. Accept or reject any or all responses hereto;
5. Extend the deadline for submission of responses hereto;
6. Negotiate potential contract terms with any respondent to this RFP;
7. Discuss with any RFP respondent corrections and/or clarifications of responses which do not conform to the instructions contained herein;
8. Cancel, or reissue in whole or in part, this RFP, if ESD determines in its sole discretion that it is its best interest to do so; and
9. Extend the term of any agreement on terms consistent with this RFP.

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

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

X. PROCUREMENT FORMS AND REQUIREMENTS

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

1. State Finance Law §§139-j and 139-k forms
2. Vendor Responsibility Questionnaire
3. Iran Divestment Act Statement
4. Non-Discrimination and Contractor & Supplier Diversity Requirements
5. Encouraging the Use of NYS Businesses in Contract Performance Form
6. Certification under State Tax Law Section 5-a
7. Schedule A (for review only—no separate form requirement)
8. Project Sunlight (for review only—no separate form requirement)
9. Insurance Requirements
10. W9 Form

**Empire State Development
RFP for Insurance Brokerage Services**

1. State Finance Law Sections 139-j and 139-k forms

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact persons listed below; the completion by respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESD web site under “RFPs/RFOs”); and periodic updating of such forms during the term of any contract resulting from this RFP. Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at: http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a prospective respondent is found to have knowingly and willfully violated the State Finance Law provisions, that prospective respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent and will not be awarded any contract issued pursuant to this solicitation. In addition, two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State governmental procurement contract. The designated contact account for this solicitation is listed as follows: ESDINSURANCEBROKER@esd.ny.gov

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at: http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf

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

2. Vendor Responsibility Questionnaire

All Respondents to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of the contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate

**Empire State Development
RFP for Insurance Brokerage Services**

the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

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

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

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

3. Iran Divestment Act

Every Proposal made to ESD pursuant to a competitive solicitation must contain the following statement, signed by the Respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. For further information and to view this list please go to: <http://www.ogs.ny.gov/about/regs/ida.asp>

4. Non-Discrimination and Contractor & Supplier Diversity Requirements

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 and the employment of minority group members and women in the performance of ESD contracts.

Empire State Development RFP for Insurance Brokerage Services

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that ESD establish goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD hereby establishes an overall goal of 30% for MWBE participation, based on the current availability of qualified New York State certified minority-owned business enterprises ("MBEs") and New York State certified women-owned business enterprises ("WBEs"). A contractor ("Contractor") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that ESD may withhold payment 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 determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

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

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

By submitting a bid or proposal, a respondent on the Contract ("Respondent") agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs 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 ESD's Office of Contractor and Supplier Diversity at OCSD@esd.ny.gov. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Respondent's MWBE requirements please see the attached MWBE guidance, "Your MWBE Utilization and Reporting Responsibilities Under Article 15-A." Additionally, a Respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

1. An MWBE Utilization Plan, Form OCSD-4, with their bid or proposal. Any modifications or changes to the 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.

**Empire State Development
RFP for Insurance Brokerage Services**

ESD will review the submitted MWBE Utilization Plan and advise the Respondent of ESD's acceptance or issue a notice of deficiency within 30 days of receipt.

2. 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 Empire State Development, Office of Contractor and Supplier Diversity, 633 Third Avenue, New York, NY 10017, OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Respondent and direct the Respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

ESD may disqualify a Respondent as being non-responsive under the following circumstances:

- a) If a Respondent fails to submit a 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 Contractor 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 Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Respondent/Contractor agrees with all of the terms and conditions of Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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 Contractor, 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 Enterprises and Equal Employment Opportunity Policy Statement, [Form OCSD-1](#), to OCSD with their bid or proposal.

Empire State Development RFP for Insurance Brokerage Services

To ensure compliance with this Section, the Respondent will be required to submit with the bid or proposal an Equal Employment Opportunity Staffing Plan, Form OCSD-2, identifying the anticipated work force to be utilized on the Contract. If awarded a Contract, Respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, Form OCSD-3, in such format as shall be required by ESD on a quarterly basis during the term of the contract.

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

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

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

Form OCSD-1:

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEOPolicyStatement.pdf

Form OCSD-2:

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

Form OCSD-3:

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_WorkforceUtilizationReport.xlsx

Form OCSD-4:

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4MWBEUtilizationPlan.pdf

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

Diversity Practices

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Pursuant to 5 NYCRR § 142.3(h), the Director of the Division has established participation in a **Mentor-Protégé Relationship** as the only metric for evaluating diversity practices for the purposes of this procurement.

SERVICE-DISABLED VETERAN-OWNED BUSINESS ("SDVOB") PARTICIPATION

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, respondents/proposers for this contract for services or technology are strongly encouraged and

**Empire State Development
RFP for Insurance Brokerage Services**

expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at: <http://ogs.ny.gov/Core/SDVOBA.asp>

Respondents/Proposers need to be aware that all authorized users of this contract will be strongly encouraged to the maximum extent practical and consistent with legal requirements of the State Finance Law and the Executive Law to use responsible and responsive SDVOBs in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Furthermore, respondents/proposers are reminded that they must continue to utilize small, minority and women-owned businesses consistent with current State law.

For purposes of this procurement, ESD hereby establishes a goal of 0% for SDVOBs, based on the current availability of qualified SDVOBs. The Contractor must document good faith efforts to provide meaningful participation by SDVOBs in the performance of the Contract.

A copy of each Respondents/Proposers SDVOB Contract Performance Use form proposing specific certified firms to be utilized or industries where SDVOB firms shall be sought is to be included as part of the response to this RFP.

A copy of the aforementioned form is available at:

<http://esd.ny.gov/CorporateInformation/Data/RFPs/SDVOBContractPerformanceUse.pdf>

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.

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

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, respondents/proposers for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. In order for ESD to assess the use of New York State businesses in each Proposal, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses the contract performance form, accessible here:

<http://esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSESINCONTRACTPERFORMANCE.pdf>.

6. Certification under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this solicitation must include in their Proposals a properly completed Form ST-220-CA. Please follow the following link.

http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

or an affidavit

http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf

Empire State Development RFP for Insurance Brokerage Services

The Respondent is not required to be registered with the State Department of Taxation and Finance. Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

7. Schedule A

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with "Schedule A," which can be found at: https://esd.ny.gov/sites/default/files/ScheduleA_Services_Materials_0.pdf

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

8. Project Sunlight

This procurement is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ESD by a person (also broadly defined) for the purposes of procuring a state contract for real property (as contemplated in this RFP) must be reported by ESD to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

9. Insurance Requirements

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

- Commercial General Liability of \$1 million per occurrence and \$2 million general aggregate;
- In the event that Respondent is using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million Bodily Injury/Property Damage each accident covering all vehicles including owned, non-owned and hired;
- Excess/Umbrella Liability of \$1 million with coverage at least as broad as and follow form of Employer's Liability, General Liability and Auto Liability;
- Professional Liability (Errors & Omissions) \$2 million minimum;
- Must show evidence of Worker's Compensation insurance at State statutory limits, Employer's Liability limits \$1 million Bodily Injury each Accident, \$1 million Bodily Injury by Disease – policy limit, \$1 million Bodily Injury by Disease – Each Employee ;
- Must show evidence of Disability insurance coverage at State statutory limits;

**Empire State Development
RFP for Insurance Brokerage Services**

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

10. W-9 FORM

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

Appendix "A" (Mentor-Protégé Agreement Sample)

Appendix B

Property List by County

County	Property Count
Albany	4
Bronx	2
Broome	1
Clinton	1
Dutchess	1
Erie	31
Jefferson	1
Kings	7
Marion	1
Monroe	2
Nassau	1
New York	46
Niagara	7
Oneida	2
Onondaga	17
Orange	1
Queens	15
Rensselaer	1
Suffolk	9
Warren	1
Westchester	2
Grand Total	153