



**Empire State
Development**

Request for Proposals to serve as Javits Center Expansion & Moynihan Train Hall Integrity Monitor

ISSUED: May 1, 2017

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. Bidders are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below (refer to: <http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>).

Designated Contacts for this Procurement:

Primary Contact: Ralph Volcy

Secondary Contact: John Discolo

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

Integritymonitor@esd.ny.gov

**PROPOSAL DUE DATE AND TIME: May 22, 2017, 12:00 pm ET
(Late proposals cannot be accepted)**

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I. INTRODUCTION

The mission of New York State Urban Development Corporation (UDC) d/b/a 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.

Issuing Entity

As one component of its mission to assist and support businesses and encourage economic investment and prosperity in New York State, ESD serves as the parent corporation for a number of subsidiary corporations, several of which are associated with large-scale development projects. Each subsidiary operates as an independent entity, with a board, president and limited staff. As the parent, ESD often provides its subsidiaries with staff or administrative support in the pursuit of statutory and individual project objectives. Consistent with that role, ESD is issuing this RFP on behalf of two of its subsidiaries: the New York Convention Center Development Corporation (“CCDC”), owner of the Jacob K. Javits Convention Center (“Existing Facilities”) and responsible for the oversight of Javits expansion (the “Javits Project”); and the Moynihan Station Development Corporation (“MSDC”), responsible for the redevelopment of the Moynihan Train Hall in the landmarked James A. Farley Post Office Building into the new Manhattan home for Amtrak (the “Moynihan Project”).

CCDC and MSDC, respectively, oversee the Javits Project and the Moynihan Project, and each Project is about to undertake large scale development and construction at its respective facility. As described in more detail herein, ESD is seeking a qualified, experienced contractor to conduct construction integrity monitoring and reporting services collectively for the two Projects.

ESD recognizes efficiencies in the expense of an integrity monitoring effort as well as coordination of management and policy development by combining integrity monitoring services for these two key large-scale construction projects. ESD intends to enter into and administer any resulting contract with a successful Bidder, however, ESD reserves the right to award contracts to more than one bidder. Both CCDC and MSDC will have integral roles in managing the joint integrity monitor.

Bidders must note whether they are applying for consideration as: (1) IM for both the Javits Project and the Moynihan Project; (2) IM for the Javits Project only; or (3) IM for the Moynihan Project only. ESD reserves the right to award contracts to more than one Bidder and to assign different IMs to the Javits and Moynihan Projects.

Jacob K. Javits Convention Center Expansion

CCDC and the Convention Center Operating Corporation (“CCOC” or “Operator”) are New York State public benefit corporations created pursuant to Laws of 1979, Chapter 35. CCDC’s enabling legislation, codified at Unconsol. Laws §6262, authorizes CCDC to develop and construct the Existing Facilities and to develop and construct expansion and renovation of the Existing Facilities.

CCOC's enabling legislation, codified at Public Authorities Law §2560 et seq., authorizes CCOC to operate and maintain the Existing Facilities, and to approve plans for its expansion and renovation. CCDC and CCOC have separately appointed Boards of Directors. CCDC owns the Existing Facilities and leases them to CCOC.

The Existing Facilities opened in 1986 and constitute the busiest convention center in the United States, encompassing 2.1 million square feet, including 840,000 square feet of exhibition space. In 2015, the Existing Facilities were operational for 337 days of the calendar year. Since opening, the Existing Facilities have been New York City's primary venue for large conventions, exhibitions and major trade shows. These events are key contributors to the New York City and State economy, stimulating direct and indirect employment, economic activity, tax revenues, and strongly supporting New York City's hotel, restaurant, tourism and entertainment industries. The Manhattan neighborhood around the Existing Facilities has expanded in recent years, including the Hudson Yards redevelopment project, and continues to grow.

A major renovation of the Existing Facilities was completed in 2014 that included a new façade, new entrances, a new green roof, a 26% reduction in energy use, a vastly improved visitor experience and state-of-the-art operations upgrades. The 2014 renovation greatly enhanced the public perception of the Existing Facilities, but current operations and the Existing Facilities' ability to compete with the convention center market are challenged by the new neighborhood development and the unavailability of parking for trucks serving the Existing Facilities. Expansion of the Existing Facilities is necessary to enable the Existing Facilities to accommodate larger events and the truck traffic generated by events, and bring new businesses and opportunities to New York without conflicting with commercial and residential development.

On April 1, 2016, the NYS Legislature passed Enabling Legislation authorizing CCDC to use the design-build method of contracting for construction projects related to the Existing Facilities. In May 2016, CCDC released a Request for Qualifications to solicit Statements of Qualifications from design builders to identify a short-list of potential Proposers to participate in a Request for Proposals ("RFP"). The Javits Project RFP was issued in June 2016 and two responses were received by the response deadline of October 31, 2016. After a thorough review process concluding with Director Authorization, CCDC executed a Design-Build Contract for the Javits Project with a Joint Venture of Lendlease Turner.

Construction of a new Transformer Building to service both the Existing Facilities and the expansion recently began. Construction on the Javits Project is anticipated to begin later in 2017. The Integrity Monitor selected through this RFP will be expected to monitor both the Transformer Building work and the expansion Javits Project, as well as the coordination of these two related projects.

Moynihan Train Hall

The Moynihan Train Hall will redevelop the Farley Building for public transportation, retail and commercial uses. A developer designated by ESD will enter into a Development Agreement and

long-term lease for most of the building, and will construct a new train hall in the building, in accordance with ESD's requirements, serving Long Island Rail Road ("LIRR"), and National Railroad Passenger Corporation ("Amtrak"), construct other building improvements and sublease portions of the building to tenants. A substantial volume of the Developer's Train Hall construction will be performed in the Train Shed below the Farley Building, which is owned by Amtrak, during weekend track outages. The Developer also will be required to coordinate with the United States Postal Service, which is an existing tenant in the building.

On January 22, 2016, ESD, together with Amtrak and the Metropolitan Transportation Authority with its affiliate LIRR, released a Joint Solicitation for the Development of the Empire Station Complex ("Joint Solicitation") including a Request for Proposals for development of the Farley building (the "Farley RFP"). This Joint Solicitation including the Farley RFP and addenda contains additional information about the project and is available for review at <http://esd.ny.gov/CorporateInformation/RFPs.html>. The Farley RFP sought proposals to serve as Developer for the project. On September 27, 2016, ESD announced its selection of a Developer.

Early work on the Train Hall started in the fourth quarter of 2016, with full construction of the Train Hall starting in early 2017. Substantial completion of the Train Hall is expected in 2020, with other work in the building taking place during the same general timeframe.

The technical design team for the Train Hall previously worked for ESD. As part of the Development Agreement the design team will work directly with the Developer and the Developer's contractor to complete the design of the project under a design-build arrangement.

The project must be carried out in the challenging New York City building environment and involves unique complexities and coordination with multiple public and private parties. Construction also must be coordinated with Amtrak and LIRR.

II. SCOPE OF WORK

The goals and objectives for this solicitation are to retain the services of a Construction Integrity Monitor (IM) to assist in providing necessary payment and compliance oversight as well as the construction monitoring for both of these major projects. The purposes of instituting an integrity monitoring program shall be to: prevent fraud, waste and abuse and/or corruption; detect it; and, if detected, to coordinate the definitive and effective actions to be taken in consultation with ESD, MSDC, and/or CCDC, as necessary (collectively, the "Clients") in order to eradicate and prevent any such activity.

Given the nature and complexity of these Projects and the specified tasks below, bidders who seek to provide IM services for both Projects must arrange for such services to be directed by a full-time senior management executive serving as the primary contact with overall responsibility for maintaining the integrity of the Projects ("IM Manager"), supported by other full-time key personnel and additional personnel as necessary, to provide the scope of services set forth above. The IM Manager must be dedicated exclusively to both Projects, with a five-year commitment to

the position. The IM Manager may be an employee of the respondent or an outside consultant. The successful Bidder must agree that the individual serving as IM Manager will not be proposed for or assigned to other projects and will not work on other projects prior to substantial completion of the services described herein, with financial consequences if these commitments are violated. If the IM Manager is not an employee, the successful Bidder must have a written agreement under which this individual commits to the position and the terms and conditions of this RFP.

If a Respondent chooses to bid on both projects, it is ESD's expectation the IM Manager would oversee both projects on a full time basis. Each project would then require a Project Manager who reports directly to the IM Manager. If a firm chooses to bid on only one project, the IM Manager can also serve as the Project Manager.

The IM Manager and/or Project Managers will be subject to replacement at ESD's request, and any replacement will be subject to ESD's approval. The successful Bidder's contract will be subject to termination by ESD if an acceptable replacement is not approved.

In order to effectively monitor for integrity risks, the IM must understand the types of corruption and fraud that can be committed by construction managers and contractors. The team must also have the expertise and industry knowledge to create proactive, customized solutions to prevent and/or deter fraud and corruption without inhibiting schedule, cost, or contractor performance at either project. The IM will have to work cooperatively with ESD, MSDC, CCDC, the Construction Managers, Project Managers, and the Contractors and be able to coordinate its work accordingly.

It is anticipated that the IM shall have sophisticated legal, forensic auditing, investigative and loss prevention skills, with particular expertise in the investigation and prosecution of construction, labor, and environmental fraud schemes. The IM shall also include individuals with expertise in construction and construction payment processes. ESD seeks a firm with expertise in the creation and implementation of policies and procedures to ensure that the entities engaged in both Projects comply with relevant laws and regulations, as well as the proven ability to prevent, deter, uncover and report actual or potential conduct that may be or can be perceived to be unethical and/or illegal.

The IM shall report to the Clients, and if necessary to the NY State Inspector General's office (and/or the MTA Inspector General), any suspicious, improper or criminal activity on the part of any contractor, subcontractor, consultant, supplier, labor official, government employees, or any other persons or entities in connection with either Project.

The term of the Agreement shall be a five (5) year period commencing in 2017 with a one (1) year option period. The specific scope of work of the IM may include, but is not limited to, the following tasks. All scope is for both Projects mentioned above. The IM will report to the relevant Clients on a regular basis:

TASK 1: Conduct a review of all existing procedures and processes of Clients, contractors and consultants for vulnerability to fraud, corruption, cost abuse, safety, conflicts of interest, and/or environmental risks. At the outset, the IM shall obtain information on all contracted entities

performing on both Projects. The IM shall review and analyze the risks inherent in all preconstruction, construction, and post construction procedures, including but not limited to the relevant procurement processes, invoice procedures, and environmental compliance programs. The IM shall also review and have a working knowledge of the relevant provisions of all contracts and subcontracts, union and trade agreements, federal grants and lender agreements, and project labor agreements. A draft report of this review will be due within two (2) months of finalization of any contract resulting from this RFP.

TASK 2: Design and implement fraud and corruption prevention programs. Based on its findings from Task 1, the IM shall recommend and implement procedures designed to mitigate all risks identified in its initial review. The IM shall provide ongoing audit and investigative services in consultation with the Clients as necessary, to include, but not be limited to, establishing and maintaining a Fraud Prevention Hotline, conducting onsite inspections of work as necessary, inspections of the makeup and use of labor, compliance with collective bargaining agreements, project labor agreements and DBE/MBE/WBE/SDVOB requirements (as applicable), compliance with state and federal labor laws, , compliance with applicable federal rules and requirements, and compliance audits of waste disposal facilities and transports. A draft report of Task 2 activities will be due within one month of finalization of the Task 1 draft report.

TASK 3: Expenditure review and monitoring. The IM shall periodically review Client, Construction Manager, and Contractor expenditure, and any changes in scope, holds, contingency, allowances, change orders, or other miscellaneous additions or credits.

TASK 4: Records review and compliance. The IM shall periodically review the records of the Construction Managers and the Contractors for fraud or non-compliance with law, with specific attention to documentation and records keeping related to the bidding process, change orders, payment applications, insurance certifications, licensure status of contractors and subcontractors and environmental records.

TASK 5: Forensic review and oversight. The IM shall conduct forensic reviews of project cost, including the analysis of in-process and post process (if needed) requisitions, invoices, and supporting documentation, payments, change orders, change order requisitions and supporting documentation, payments to vendors, equipment invoices, bond payment reconciliation, certified payroll reports, site logs, trucking manifests, etc.

TASK 6: Forensic auditing and investigations. The IM shall provide ongoing forensic auditing and investigative services, as necessary and directed by the Clients, to include, but not be limited to: background investigations on contractors, suppliers, consultants; conducting in field investigations and onsite monitoring of construction work as necessary; investigating and evaluating construction contractor use of labor, compliance with collective bargaining agreements and project labor agreements, and compliance with state and federal labor laws; review and monitoring of environmental plans and procedures; compliance with DBE/MBE/WBE/SDVOB requirements and goals; and conducting investigations into illegal conduct by contractor's staff, and others. The IM shall provide written reports of its audits and/or investigations, and may be called upon to meet with law enforcement officials as appropriate. The IM shall also provide a post construction review to include a forensic audit of all Federal funded costs, if applicable.

Background investigations can include but are not limited to the following tasks:

- o Creation and review of Vender Representation forms
- o Evaluation of any conflicts of interest, and proposed mitigation actions, and recommend mitigation actions where appropriate
- o Review of background information for vendors, including but not limited to criminal & civil judgments, liens, pending lawsuits.
- o All related research on vendor background and history (for example, DnB reports, Vendex data, etc.)
- o Field audits, construction site, and/or office visits

It is ESD’s intent to create a spirit of cooperation between the Bidder selected through this RFP and the project team members, project management consultants, and contractors.

III. SCHEDULE OF DATES

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

Release of RFP	Monday May 1, 2017
Deadline for Submission of Questions	Friday , May 5, 12:00 pm ET
Corporation to Respond to Questions	On or about Friday May 12, 2017
Submission of Proposals (date and time)	Monday May 22, 2017, 12:00 pm ET
Interviews	On or about May 25-26, 2017
Announcement of Successful Bidder	On or about Tuesday May 30, 2017
Anticipated Contract Start Date	Wednesday, May 31, 2017

Please note, the Corporation reserves the right to change any of the dates stated in this RFP. Vendors should be prepared to attend interviews with key personnel proposed in this engagement.

IV. SELECTION

ESD, in consultation with MSDC and CCDC, will evaluate each proposal based on the “Best Value” concept. This means that the proposal that “optimizes quality, cost, and efficiency among responsive and responsible Offerers” shall be selected for award (State Finance Law, Article 11, § 163).

ESD will determine which proposal best satisfies the requirements of this RFP. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and price. Proposals failing to meet the requirements of this document may be eliminated from consideration. Qualified staff/individuals will evaluate all submitted proposals. ESD may request clarification of a proposal. The evaluation process will include separate technical and cost evaluations and will be conducted as set forth herein.

Upon review of proposals submitted by Bidders, ESD may, at its discretion, submit to Bidders written questions and requests for clarification relating to their Technical, Price, and/or Administrative Proposals. Bidders will be provided a reasonable period of time in which to submit written responses to ESD's requests for clarification.

Other than to provide clarifying information as may be requested by ESD, no Bidder will be allowed to alter its proposal or add information.

1. Completeness

The Corporation will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements defined in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of the Corporation, may be rejected. All proposals passing the Completeness Review will be evaluated.

2. Evaluation

Technical Evaluation (60 percent)

An Evaluation Committee will independently score each Technical Proposal that meets the submission requirements of this RFP. Evaluation Committee members will score Technical Proposals to identify Bidders with the highest probability of satisfactorily providing the services described in this RFP. Individual Evaluators scores will be averaged to calculate a technical score for each responsive Bidder. The technical evaluation is 50 percent of the final score with the following evaluation criteria categories:

- Firm Experience and Qualifications
- Staff Experience and Qualifications
- Project Plans / Approach

Evaluations will be based on the Bidder's demonstration of its ability to provide the services required through its Technical Proposal. Considering the above criteria, the Corporation may review and check Bidder and/or staff references. Any missing references or the inability to contact a reference provided by a Bidder will not be looked upon favorably and may result in a reduction of points. Evaluators may reconsider any technical scores as a result of these reference checks.

During the evaluation process, the Corporation may require clarifying information from a Bidder. If specific sections of the written proposal require clarification, the Corporation will identify the

section(s) and information requested in writing. In addition to references, the Corporation may use the proposal, and the Corporation's own investigation of a Bidder's qualifications, experience, ability or financial standing, and any other material or information submitted by the Bidder in the course of evaluation and selection under this RFP. The Corporation reserves the right to contact other sources not necessarily identified in the proposal to obtain information.

Diversity Practices (10 percent)

Respondents to the RFP will be evaluated for Diversity Practices using the NYS Diversity Practices Scoring Matrix. Up to 10 percent of the score will be awarded based upon the contents of the Diversity Practices Questionnaire submitted by each Respondent to the RFP.

Price Evaluation (30 percent)

The Corporation will examine the Price Proposal documents and review them for responsiveness. If a Price Proposal is found to be non-responsive, that proposal will be eliminated from consideration.

All complete, responsive proposals will receive a Price score.

Price Proposals will be evaluated on a pre-determined formula using the Bidder's proposed not-to-exceed hourly rates. The maximum score will be allocated to the proposal with the lowest cost according to this formula. All other proposals will receive a proportionate score to the proposal with the lowest price, according to the following formula:

Price points awarded = (maximum potential points) X (Low Bid / Proposer's Bid)

Total Score

The Technical, Diversity Practices, and Price Scores will be added to achieve a total composite score.

3. Selection

Selection

It is ESD's intent to award a single contract for all services as a result of this RFP. However, if in the selection committee's sole discretion it is determined that ESD's interests are best met by multiple awards then more than one Bidder may be selected. ESD reserves the right to not award a contract or award multiple contracts, at its sole discretion.

- Notification of selection/non-selection will be sent to Bidders by e-mail.
- The Request for Proposals and all amendments/clarifications thereto, and the proposal submitted by the successful Bidder and any clarifications thereto, will serve as the basis for, and will be included as appendices to, the contract with the Corporation.
- In the event an agreement cannot be made with the highest scoring Bidder, ESD has the right to negotiate with the next highest scoring Bidder.

- The delivery of services based on an approved contract is expected to commence on or about May 31, 2017.
- Upon contract award, public announcements or news releases pertaining to the contract shall not be made without the prior written consent of the Corporation.

V. SUBMISSION OF PROPOSALS

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

To assist Bidders, a Proposal Checklist is located at the end of this RFP. A proposal that does not provide all the information requested below may be subject to rejection. A complete proposal for this RFP is comprised of three (3) separate sealed proposals: Technical, Price, and Administrative. Please see below for content and submission details.

Submission of a Complete Three-Part Proposal

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

1. Technical Proposals, Price Proposals, and Administrative Proposals will be submitted in separately sealed packages
2. "Original" documents will have an original signature and be clearly marked "Original"
3. Clearly mark the outside packaging for each set of sealed proposals (Technical, Price, and Administrative);
4. Clearly mark the original and each copy as "**RFP – Javits/Farley Integrity Monitor Proposal submitted by [Bidder's name]**"
5. Each Bidder must submit:
 - Two (2) originals, four (4) hardcopies and one (1) text-searchable electronic copy on CD or flash drive of the *Technical Proposal*.
 - Two (2) originals and one (1) electronic copy on CD or flash drive of the *Price Proposal*.

- Two (2) originals and one (1) electronic copy on CD or flash drive of the *Administrative Proposal*.

A Proposal Checklist is located at the end of this RFP to assist Bidders in compilation of proposals. Note: The sealed, separate proposal packages may be submitted within one complete package for mailing.

Attached in Exhibit A is a list of entities performing work on these two major projects. Respondents must disclose in their submission any known conflicts of interest having to do with firms.

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

Empire State Development
633 Third Avenue, 35th Floor
New York, New York 10017-8167
Attention: Hector Morel
RFP: Integrity Monitor – Javits/Moynihan

Late proposals will not be considered for award.

1. Technical Proposal

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

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

The purpose of the Technical Proposal is to provide Bidders 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. The Technical Proposal should specifically detail the Bidder's experience and qualifications in providing the services sought by the Corporation. There should be no dollar unit or costs included in the Technical Proposal document.

- A. Table of Contents

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

B. Bidder Experience and Qualifications

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

1. A summary of the Bidder's technical expertise that describes its specific capabilities. This narrative should discuss the Bidder's ability to provide successful and timely integrity monitoring services.
2. Include a listing of the types of government construction projects, particularly those in NYS and NYC, that the Bidder has supported, either as an integrity monitor, process documentation / improvement, or other support. Please include a brief description of the project integrity support provided.
3. A detailed description of the direct prior experience of the Bidder comparable to those services detailed in this RFP in the last five (5) years. The Bidder should detail three similar government Alternative Project Delivery engagements of actual projects that demonstrate the depth and breadth of the Bidder's expertise and experience. Examples that successfully demonstrate experience of this magnitude will be evaluated more favorably. Please indicate, for each procurement integrity monitoring project / report completed:
 - Name of client organization
 - Role of the Bidder
 - Type of client (e.g. government entity (local, State, Federal), private company etc.)
 - Project description
 - Project duration including start/end dates
 - Number of Bidder staff (full time employees) involved in the review
 - Value of construction projects monitored;
 - Project schedule, if applicable; and
 - Any other information regarding the project that would assist the Corporation in determining the success experienced by the client
4. The Bidder should include in the proposal reference for at least two (2) engagements described in 3 above. References should, if possible, be letters from actual clients, and should include:
 - Name of the Bidder
 - Name of the Client

- Client business address
- Client contact name and title
- Client contact telephone number and email address
- Brief description of the type and scope of services of the engagement
- Engagement term start and end dates
- Quality of work performed during the engagement (only include if a letter from an actual client)

Please note that if references are not provided by an actual client, the Corporation will try to contact the references. Inability to contact a reference provided by a Bidder will not be looked upon favorably and may result in a reduction of points during evaluation.

Information provided by references may be used by the Corporation for proposal evaluation purposes. The Corporation may seek additional information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFP, and the responsiveness of the Bidder to the client during the engagement. The Corporation reserves the right to deploy, at its sole discretion, a variety of methods and communication approaches to contact references, depending on what the Corporation deems to be the most effective and efficient manner.

C. Staff Experience and Qualifications

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

1. Bidders should identify the Principal, Project Manager, and other staff to be assigned to the engagement consistent with the role in the Price Proposal Form located at the end of this RFP. Please indicate the availability of the key person(s) (staff proposed in the Principal and Project Manager roles) for consultation with the Corporation, including but not limited to his or her ability to meet in New York, New York. Any staff expected to be onsite on a regular basis should be based in or around New York, New York.
2. Supply a project organization chart, with names, showing the individuals to be assigned to the project with a specific indication of what role the individual will have on this project. The chart should include the role of each individual.
3. State all relevant information regarding the number, qualifications and experience of the staff to be specifically assigned to this engagement.
4. In an appendix of the Technical Proposal, please include resumes for key members of the consulting team, including subcontract personnel who are likely to work on the engagement.

5. The Bidder is asked to supply the Corporation with at least one (1) reference for the each proposed Principal and Project Manager, who can comment on the experience of the proposed staff. References should, if possible, be letters from actual clients, and should include:
 - Name of the Bidder
 - Staff Member Name and proposed role, as assigned in the Price Proposal Form
 - Name of the Client Firm / Company
 - Client business address
 - Client contact name and role
 - Brief description of the type and scope of services of the engagement
 - Engagement term start and end dates
 - Quality of work performed during the engagement (only include if a letter from an actual client)

Please note that if references are not provided by an actual client, the Corporation will try to contact the references. Inability to contact a reference provided by a Bidder will not be looked upon favorably and may result in a reduction of points during evaluation.

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

D. Project Plan / Approach

In this section of the Technical Proposal, Bidders should demonstrate their competence and capacity to undertake the review of the Design Build procurement by providing the following:

Bidders should include in this section a narrative summarizing its proposed approach to managing this as well as a discussion of the Bidder's approach to project management

1. A proposed project plan describing the recommended technical approach for accomplishing the services described in this RFP. Information included in this section should demonstrate the Bidder's understanding of the effort, skills and process necessary for the successful completion of the project, including the specific knowledge of design build procurement that would be applied to the engagement.
2. A timeline of performing the review and report development should be provided.

3. A description of how the Bidder intends to utilize its personnel and manage its activities, including any work to be carried out by a subcontractor, during the engagement.
4. A list of anticipated deliverable items and estimated dates for those deliverables to be completed.
5. A plan for communication or periodic progress status updates to brief the Corporation on the status of the review, problems which may be identified, and upcoming activities engagement. This may include submittal of draft findings and / or process enhancement recommendations. Standard Operating Procedures for communication plan will be developed in conjunction with ESD and the Inspector General's office.
6. A narrative describing how the Bidders will assist the Corporation in monitoring the resolution of significant issues identified.

2. Price Proposal

Among the selection criteria is the fee the Bidder will charge the Corporation for the services described in this RFP. All fees must be presented as a fixed United States dollar amount. An official authorized to contractually bind the prospective Bidder must sign the Price Proposal.

The Price Proposal is an integral component of a Bidder's submission. Bidders should take particular care to ensure the Price Proposal is completed fully and in complete accordance with the instructions. Bidders are advised to submit questions about or requests for clarification of the Price Proposal as a Bidder Inquiries.

The Pricing and Compensation Proposal must include the following for the initial five (5) year period commencing in 2017, **and all costs must be broken down by project:**

1. Proposed Fixed Fee, representing Consultant's profit.
2. Proposed Direct Personnel Costs, including the name, title and actual hourly labor rates of all staff working on the project, per each task in the Scope of Services.
3. Proposed Overhead Rate, expressed as a percentage (i.e., 145%). The Proposer should submit any backup material deemed appropriate, including but not limited to the computation of the Overhead Rate and the firm's Certified Overhead Statement. Failure by a Proposer to submit such material as requested may deem such Proposer as ineligible for award.
4. Proposed Reimbursable Expenses, as an itemized list for out - of - pocket expenses and other direct costs. These items are subject to ESD's reimbursement policies and procedures.
5. Proposed Costs of Sub-consultants, if any, detailing each of the above elements.

3. Administrative Proposal

Schedule A of this RFP states standard requirements that must be included in every contract entered into with the Corporation. The successful Bidder must agree to abide by these requirements and provide any information requested by the Corporation in connection with these requirements. Bidders should also complete and submit the administrative components listed below. Failure to submit any of the requirements below may result in the rejection of a Bidder's proposal.

1. Proposal Submission Cover Sheet (attached to this RFP), submit with proposal
2. [State Finance Law §§139-j and 139-k forms](#), submit with proposal
3. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online
4. Iran Divestment Act Statement, included in Proposal Submission Cover Sheet
5. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
 - o [OCSD-1 - MWBE Participation / EEO Policy Statement](#)
 - o [OCSD-2 - Staffing Plan](#)
 - o [OCSD-3 - Workforce Utilization Report](#)
[OCSD-3A - Workforce Utilization Report Instructions](#)
 - o [OSCD - Workforce Utilization Report - EEO SOC Classification Guide](#)
 - o [OCSD-4 - MWBE Utilization Plan](#)
 - o [OCSD-5 - MWBE Waiver Request Form](#)
6. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
7. [Diversity Practices Questionnaire](#), submit with proposal
8. [Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance](#), submit with proposal
9. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#), submit with proposal
10. Schedule A, included in Proposal Submission Cover Sheet
11. Insurance Requirements, per Schedule A Article 8 and Appendix E, submit proof with proposal.

VI. QUESTIONS

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

VII. GENERAL PROVISIONS

Reserved Rights

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:

- Amend, modify or withdraw this RFP;
- Revise any requirement of this RFP;
- Require supplemental statements or information from any responsible party;
- Accept or reject any or all responses hereto;
- Extend the deadline for submission of responses hereto;
- Negotiate potential contract terms with any respondent to this RFP;
- Have discussions with any respondent to this RFP to correct and/or clarify responses which do not conform to the instructions contained herein;
- 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;
- Extend the term of any agreement on terms consistent with this RFP; and
- Award one or multiple contracts as ESD sees fit.

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.

Required Approvals

The awarded contract, if any, may be subject to review and approval by the Office of the State Comptroller ("OSC") pursuant to Public Authorities Law §2879-a and the regulations issued thereunder. Such OSC review and approval may be required of contracts or contract amendments over a certain dollar value where such contracts are paid in whole or in part with monies appropriated by the State, or were awarded on a basis other than a competitive procurement (as that term is defined in the law and regulations). If the awarded contract is subject to OSC review and approval, the contract shall not be valid and enforceable, nor shall the Corporation have any liability of any kind arising from or in connection with the contract, unless and until OSC approval has been received.

Performance

The Contractor's performance will be assessed by the Corporation according to the achievement of The Contractor's contractual obligations in a timely and professional manner, as set forth in the resulting Contract. The Corporation will utilize progress reports and periodic meetings to ensure that the project is carried out on a timely basis and results in effective recommendations and work products.

Contractor warrants that its services shall be performed in accordance with applicable professional standards and that the Contractor shall correct, at no charge to the Corporation, services which fail to meet applicable professional standards and which result in obvious or patent errors in the progression of its work.

Non-Disclosure Agreement

Respondents should be prepared to sign a Non-Disclosure Agreement (NDA) with the Port-Authority in regards to access to sensitive materials.

Additional Services Requested

The Corporation may, at any time, by written notice, make changes or additions to work or services within the general scope of the contract resulting from this RFP (not to include professional services requiring licenses or specialized expertise such as engineering, architectural, and environmental consulting, abatement, treatment, and testing work) for unanticipated needs. If any such change or addition causes an increase or decrease in the cost of, or in the time required for, performance of the contract, an equitable adjustment may be made in the price using the billing rates set forth in the contract, and the Contractor shall be notified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that the Corporation, if it decides that the facts justify such action, may receive and act upon such claim as asserted at any time. Nothing in this clause shall excuse the Contractor from proceeding with this contract as modified.

Contractor Staff

Contractor staff assigned to work on this project shall be subject to approval by the Corporation. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. The Contractor should notify the Corporation of any proposed changes in key staff immediately. The Corporation has an absolute right and discretion to approve or disapprove any proposed changes in staff. The Corporation, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld.

The Contractor specifically represents and agrees that its members, officers, employees, agents, servants, consultants, shareholders, and subcontractors have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder.

The Agreement resulting from this RFP is intended to secure the professional services of the Contractor because of its ability and shall not be assigned, conveyed, transferred, or disposed of by the Contractor.

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the State Project Manager. Approval shall not be unreasonably withheld upon receipt of written request to subcontract. All employees of the Contractor, or of its Subcontractors, who shall perform Services under this contract, shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Services under this Agreement on behalf of Contractor shall, in performing the Services, comply with all applicable Federal and State laws concerning employment in the United States.

VIII. PROCUREMENT FORMS AND REQUIREMENTS

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be executed and should be included in the administrative proposal.

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

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 identified on the cover of this RFP; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC web site under “RFPs/RFQs”); and periodic updating of such forms during the term of any contract resulting from this RFP.

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

http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by 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 referenced on the cover of this RFP

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

http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf. All potential Respondents are solely responsible for full compliance with the

Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

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 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 bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty

of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

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

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.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD/NYCCDC hereby establishes an overall goal of **30%** for MWBE participation, **15%** for New York State certified minority-owned business enterprises ("MBE") participation and **15%** for New York State certified women-owned business enterprises ("WBE") participation (based on the current availability of qualified MBEs and 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/ NYCCDC 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.

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 broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

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

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

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

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OCSD for review and approval.

OCSD will review the submitted MWBE Utilization Plan and advise the respondent of OCSD’s acceptance or issue a notice of deficiency within 30 days of receipt.

B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OCSD to be inadequate, OCSD 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/ NYCCDC may disqualify a Bidder as being non-responsive under the following circumstances:

- a) If a Bidder fails to submit a MWBE 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.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly 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 agrees with all of the terms and conditions of Form OCSD-1, MWBE Participation/EEO Policy Statement. 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 Form OCSD-1, MWBE Participation/EEO Policy Statement, to ESD with its bid or proposal

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a monthly 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 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:

FormOCSD-1:

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

Form OCSD-2: http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf

FormOCSD-3:

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

FormOCSD-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 the Office of Contractor & Supplier Diversity at OCSD@ESD.NY.GOV.

For purposes of providing meaningful participation by MWBEs on the Project and achieving the Project goals established herein, Respondent should reference the directory of New York State Certified MWBEs found at the following internet address:

<https://ny.newnycontracts.com/>

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

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. ESD recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ESD contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Contract Goals

A. ESD hereby establishes an overall goal of **3%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

SDVOB Utilization Plan

A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid (https://esd.ny.gov/sites/default/files/SDVOB_100_Utilization_Plan.pdf).

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

C. ESD will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of ESD acceptance or issue a notice of deficiency within 20 days of receipt.

D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

E. ESD may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

- (a) If a Bidder fails to submit an SDVOB Utilization Plan;
- (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
- (c) If a Bidder fails to submit a request for waiver; or
- (d) If ESD determines that the Bidder has failed to document good faith efforts.

F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

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

B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

D. If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to ESD.

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

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to 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 SDVOB 101 available on the ESD website and should be completed by the Contractor and submitted to ESD, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: OCSD@esd.ny.gov.

Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

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

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, bidders/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 in Contract Performance form, accessible here:

<http://esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSES/INCONTRACTPERFORMANCE.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 (http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf), or an affidavit (http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf) that the Respondent is not required to be registered with the State Department of Taxation and

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

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:

<http://esd.ny.gov/CorporateInformation/Data/ScheduleA.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 insurance in accordance with the requirements described in Article 8 of Schedule A. See section 7 above for a link to Schedule A.

Proposal Submission Cover Sheet

Please Note: A “No” response to below questions three, four, five or nine (3, 4, 5, or 9) may be grounds for disqualification from this procurement.

RFP Name:					
Proposal Date:					
1	Information Regarding the Proposer’s Bidder:	Company Name:			
		Street Address:			
		City / State/ Zip:			
		Phone:			
		Taxpayer ID:			
		Website:			
2	Primary Contact Concerning this Proposal:	Name:			
		Title:			
		Street Address:			
		City / State/ Zip:			
		Phone:			
		Email :			
3	Irrevocable Offer:	The rates quoted are an irrevocable offer that is good through the execution of a contract.	Yes	No	
4	Proposer Guarantees:	<input type="checkbox"/> Bidder certifies it can and will provide and make available, as a minimum, all services set forth in the RFP. <input type="checkbox"/> Bidder has read the RFP and Schedule A and agrees that the rights and prerogatives as detailed therein are retained by the Corporation <input type="checkbox"/> Bidder agrees to be bound by the Contractual Requirements found in the RFP.	Yes	No	
5	Proposer Warranties:	<input type="checkbox"/> Proposer warrants that it is willing and able to comply with New York laws with respect to foreign (non-New York) corporations. <input type="checkbox"/> Proposer warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof. <input type="checkbox"/> Proposer warrants that it will not delegate or subcontract its responsibilities under an agreement without the written permission of the Corporation. <input type="checkbox"/> Proposer warrants that all information provided by it in connection with this proposal is true and accurate.	Yes	No	

6	M/WBE Status:	Is Proposer a New York State Certified Minority-owned Business?	Yes	No
		Is Proposer a New York State Certified Women-owned Business?	Yes	No
7	SBE Status:	Is Proposer a Small Business as defined in New York State Executive Law Section 310(20)? By indicating yes, Proposer certifies that it meets the criteria as defined in New York State Executive Law Section 310(20).	Yes	No
8	SDVBE Status:	Is Proposer a New York State Certified Service-Disabled Veteran-owned Business?	Yes	No
9	Iran Divestment Act	Bidder certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list (http://www.ogs.ny.gov/about/regs/ida.asp) created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.	Yes	No

Price Proposal Form – Personnel Costs and Sub-consultant Personnel Costs, with Overhead Rates

Bidder Name: _____

Project: _____

Javits Expansion

Title	Description of Project Role	Name	Bidder or Subcontractor	Tasks Assigned (1-7)	Actual Hourly Rate (paid to employee) US \$	Overhead Rate %	Bill Rate (paid by Client) US \$
<i>Sample</i>	<i>Sample role description.</i>	<i>Sample Name</i>	<i>Bidder</i>	<i>1, 3, 5, 6</i>	<i>\$50.00</i>	<i>140%</i>	<i>\$70.00</i>
	IM Manager: Overall responsibility for the performance of the project. An executive within the Bidder’s company and have significant experience in similar government projects. This is a “Key Staff position.” *						
	Project Manager: Coordinate and delegate assignments to the Bidder’s project team and serve as point of contact with Clients regarding project status, issues, meetings and deliverables. Should also have significant experience in similar government projects with design build. This is a “Key Staff position.” *						

* Bidder may add text to, but may not remove text from the role descriptions for Key Staff Positions; Bidder may add rows as necessary.

Total – Personnel Costs	\$
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Price Proposal Form – Reimbursable Expenses & Proposed Fixed Fee

Reimbursable Expenses

Bidder Name: _____ Project: Javits Expansion

Expense description	Expense Rate US \$	Estimated Occurrence (over life of contract)	Total Cost Expense Rate * Estimated Occurrence US \$

Total – Reimbursable Expenses	\$
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Proposed Fixed Fee

The proposed fixed fee includes all Personnel costs (including markup) and reimbursable expenses noted in the forms for this Project. No additional costs are allowed.

Total Proposed Fixed Fee	\$
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 Authorized Signatory for the Bidder Name (print or type) Title Date

Price Proposal Form – Personnel Costs and Sub-consultant Personnel Costs, with Overhead Rates

Bidder Name: _____ **Project:** Moynihan Train hall

<u>Title</u>	<u>Description of Project Role</u>	<u>Name</u>	<u>Bidder or Subcontractor</u>	<u>Tasks Assigned (1-7)</u>	<u>Actual Hourly Rate (paid to employee) US \$</u>	<u>Overhead Rate %</u>	<u>Bill Rate (paid by Client) US \$</u>
<i>Sample</i>	<i>Sample role description.</i>	<i>Sample Name</i>	<i>Bidder</i>	<i>1, 3, 5, 6</i>	<i>\$50.00</i>	<i>140%</i>	<i>\$70.00</i>
	IM Manager: Overall responsibility for the performance of the project. An executive within the Bidder’s company and have significant experience in similar government projects. This is a “Key Staff position.” *						
	Project Manager: Coordinate and delegate assignments to the Bidder’s project team and serve as point of contact with Clients regarding project status, issues, meetings and deliverables. Should also have significant experience in similar government projects with design build. This is a “Key Staff position.” *						

* Bidder may add text to, but may not remove text from the role descriptions for Key Staff Positions; Bidder may add rows as necessary.

Total – Personnel Costs	\$
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Price Proposal Form – Reimbursable Expenses & Proposed Fixed Fee

Reimbursable Expenses

Bidder Name: _____ Project: Moynihan Train Hall

Expense description	Expense Rate US \$	Estimated Occurrence (over life of contract)	Total Cost Expense Rate * Estimated Occurrence US \$

Total – Reimbursable Expenses	\$
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Proposed Fixed Fee

The proposed fixed fee includes all Personnel costs (including markup) and reimbursable expenses noted in the forms for this Project. No additional costs are allowed.

Total Proposed Fixed Fee	\$
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 Authorized Signatory for the Bidder Name (print or type) Title Date

Proposal Checklist

Request for Proposals: Javits Center Expansion & Moynihan Train Hall Integrity Monitor

Bidder Name	Date
Technical Proposal (2 original, 4 hardcopies and 1 electronic in word or searchable pdf submitted on a CD or flash drive)	
1. Does the proposal contain 2 originals, 4 hardcopies and 1 electronic of the Technical Proposal?	Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Does the proposal contain all components of the Technical Proposal, as stated below?	
A. Table of Contents	Yes <input type="checkbox"/> No <input type="checkbox"/>
B. Bidder Experience and Qualifications	Yes <input type="checkbox"/> No <input type="checkbox"/>
Summary of the technical expertise	Yes <input type="checkbox"/> No <input type="checkbox"/>
List of government procurement types that the Bidder has supported	Yes <input type="checkbox"/> No <input type="checkbox"/>
Detailed description of the direct prior experience (3 projects) in the last 5 years	Yes <input type="checkbox"/> No <input type="checkbox"/>
Two reference letters	Yes <input type="checkbox"/> No <input type="checkbox"/>
C. Staff Experience and Qualifications	Yes <input type="checkbox"/> No <input type="checkbox"/>
List of proposed staff by role described in price proposal form	Yes <input type="checkbox"/> No <input type="checkbox"/>
Project organization chart	Yes <input type="checkbox"/> No <input type="checkbox"/>
Qualifications of proposed staff	Yes <input type="checkbox"/> No <input type="checkbox"/>
Resumes for proposed staff	Yes <input type="checkbox"/> No <input type="checkbox"/>
Once reference letter for each proposed staff in Principal or Project Manager role	Yes <input type="checkbox"/> No <input type="checkbox"/>
D. Project Plan / Approach	Yes <input type="checkbox"/> No <input type="checkbox"/>
Proposed Project Plan	Yes <input type="checkbox"/> No <input type="checkbox"/>
Timeline	Yes <input type="checkbox"/> No <input type="checkbox"/>
Description of how personnel and subcontractors will be managed	Yes <input type="checkbox"/> No <input type="checkbox"/>
A plan for communication or periodic progress / status updates	Yes <input type="checkbox"/> No <input type="checkbox"/>

A narrative describing how the Bidders will assist the Corporation in monitoring the resolution of significant issues		Yes	No
Price Proposal (2 originals and 1 electronic copy submitted on a CD or flash drive)			
1.	Does the proposal contain 2 originals and 1 electronic of the Price Proposal?	Yes	No
2.	Did the Bidder complete and sign Price Proposal Form?	Yes	No

Administrative Proposal (2 originals and 1 electronic copy submitted on a CD or flash drive)

1.	Does the proposal contain 2 originals and 1 electronic of the Administrative Proposal?	Yes	No
2.	Did the Bidder submit executed copies of:		
	Proposal Submission Cover Sheet	Yes	No
	State Finance Law 139-j and 139-k forms	Yes	No
	Vendor responsibility Questionnaire (submit with proposal or online)	Yes	No
	OCSD-1 MWBE Participation / EEO Policy Statement	Yes	No
	OCSD-2 Staffing Plan	Yes	No
	OCSD-3 Workforce Utilization Report	Yes	No
	OCSD-3A Workforce Utilization Report Instructions	Yes	No
	OCSD-4 MWBE Utilization Plan	Yes	No
	OCSD-5 MWBE Waiver Request Form	Yes	No
	Encouraging the use of NYS Businesses in Contract Performance Form	Yes	No
	Diversity Practices Questionnaire	Yes	No
	Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance	Yes	No
	Certification under State Tax Law Section 5-a	Yes	No
	Insurance requirements per Schedule A, Article 8 and Appendix E	Yes	No