



**Empire State
Development**

WORKFORCE DEVELOPMENT LONG ISLAND TRAINING CENTERS REQUEST FOR APPLICATIONS

Issued: December 28, 2022

Designated Contacts for this Request for Applications:

Primary Contact: Cara Longworth
Secondary Contact: Jenna DiMarco

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

LIWorkforceDev2023RFA@esd.ny.gov

This Request for Applications (“RFA”) is posted on the Empire State Development website:

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

Applications must be sent to the designated Dropbox:

<https://www.dropbox.com/request/lrlllbLwxChjLkif9Cph>

**APPLICATIONS DUE DATE AND TIME:
On or before Friday, March 31, 2023, by 5:00 PM EST.**

Late applications will not be accepted

I. Introduction

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

A. Project Summary

The FY 2023 New York State Budget includes a \$350 million appropriation to support transformative projects in Nassau and Suffolk Counties (Long Island). This new fund is referred to as the “Long Island Investment Fund” (LIIF or the Program). The Program is focused on large-scale, transformative projects that will have lasting impacts on Long Island and that are consistent with the strategic goals and priorities of the Long Island Regional Economic Development Council’s strategic plan and the four strategic pillars of Empire State Development. This includes projects that:

- 1) have garnered community and State Legislator support, 2) will result in quality jobs, 3) leverage non-State investment, 4) are financially sound, and 5) can quickly begin.

Per the program appropriation language, funds will be directed towards purposes that may include, but not be limited to: “Expansion of workforce development, training, and career-focused educational opportunities for residents of Long Island from all backgrounds.”

The LIIF guidelines (https://esd.ny.gov/sites/default/files/Long-Island-Investment-Fund-Guidelines-FINAL_0.pdf) allocate \$50 million of the \$350 million to the “development of one or more regional workforce training centers, to be modeled after successful centers throughout the country/state.” Capital grants will be awarded from this LIIF allocation to support one or more entities that will build, equip and operate centers to train/retrain Long Island’s workforce to meet the needs and opportunities of regional industry. Successful applicants will show an operating budget and a plan to work cooperatively with a wide variety of public and private training and education providers and workforce stakeholders to develop curriculum and offer hands-on training, in collaboration with workforce and industry partners. These centers should be centrally located in areas with access to transit and near populations identified with the greatest need. Goals should also align with the Long Island Strategic Plan (“[Long Island REDC Phase II Sector-Based Strategies](#)” report).

ESD has identified several industries targeted for growth, including Biotech and Life Sciences, Cleantech and Renewable Energy, Craft Beverage, Tourism, Advanced Manufacturing, Agribusiness. Project(s) with focus on training in the identified industries and that lead to jobs within those industries will be prioritized.

B. Request for Application Schedule

Item	Date
Release of Request for Applications	Wednesday, December 28, 2022
Deadline for Submission of Questions	Friday, February 24, 2023, by 3:00 PM EST
Deadline for ESD to Respond to Questions	Friday, March 3, 2023
Deadline for Application Submittal	Friday, March 31, 2023, 5:00 PM EST
Anticipated Announcement of Selections	TBD
Anticipated Contract Start Date	TBD

II. **Project**

A. **Program Goals and Objectives**

Under this RFA, ESD anticipates selecting one or more applicants to create workforce training centers to provide training for in demand workplace skills that are identified in the [Long Island Regional Economic Development Council \(LIREDC\) Strategic Plan](#) in order to train/re-train and place individuals with the open job positions within the economy. Preference will be given to training programs that support socially and economically disadvantaged groups and/or under-represented populations in the regional workforce including, but need not be limited to, those that are not in the labor force, unemployed, underemployed, and/or low-income individuals (see glossary for definitions).

B. **Eligibility Requirements**

To be eligible to receive grant proceeds from ESD, an applicant must be in good standing with the State of New York and ESD. Eligible applicants include not-for-profits, educational institutions, private businesses, and should demonstrate a strong track record or strong partnerships of providing training programs resulting in the connection between job seeker to open positions and job placement.

C. **Grant Funding and Project Timeline**

Grant Amount - ESD expects to award the entire \$50 million through the RFA. There is no minimum grant. However, ESD reserves the right to award grants at a varying schedule depending on the number and quality of applications received and other considerations set forth in this RFA.

There is a cost-match requirement associated with this grant. In order to be eligible to receive a grant award, the applicant must agree to meet the following cost-match requirement: the LIIF grant will cover no more than 50% for the total project cost (capital cost).

Eligible and Ineligible Expenses

Eligible activities include but are not limited to:

- Construction, expansion, and rehabilitation of facilities
- Acquisition of machinery and equipment
- Infrastructure and site development
- Design/engineering related to construction
- Additional activities deemed relevant and approved by ESD.

Ineligible activities:

- Indirect costs
- Operating costs (such as but not limited to salaries, mortgages rent, utilities) are ineligible.
- Expenses must be relevant and justifiable to the project(s) outcome.

The budget needs to show sources and uses for capital project and also demonstrate adequate operating budget and uses. ESD has the right to review all expenses and deny the reimbursement of any expenses that are deemed ineligible.

D. Data Collection

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

Applicants awarded will be required to report outcomes data and metrics to demonstrate impact of the training and education program to ESD's Office of Strategic Workforce Development (OSWD). Currently defined metrics include, but may not be limited to:

- Total enrollment and rate of program completion
- Credentials earned
- Job placement rate within a set time (three-six months), and distribution of placement by employer type, occupation, and skill level
- Participant earnings pre- and post-placement
- Participant demographics (if demographics have been voluntarily reported)
- Job/earning outcomes by demographic group (if available)
- Job retention at three, six, and 12-month periods

The full reporting standards and metrics will be made available to awarded applicants.

III. Application Information

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

Assemble the application in the following order:

1. Cover page
2. Table of Contents
3. Glossary of Terms Used
4. Executive Summary (max 1 page)
5. Proposal (10-page limit)
 - a. Organization's experience and qualification
 - i. Provide details of the staffs' experience, knowledge, ability, individual roles.
 - ii. Offer a list of existing business partners with open positions that can be filled by your trainees.
 - iii. Outline how you will identify new business partners with open employment positions for your trainees.
 - b. Project readiness and work plan
 - i. Offer plan with specific goals that will be met by this program.
 - ii. Offer plan for obtaining industry business partners, outline plan for maintaining and expanding number of industry partners beyond the initial set
 - iii. Outline the industry the training will be focused on and the plan for training people to fill open jobs in the industry
 - iv. Explain the outreach plan to potential trainees and identify target populations
 - v. Outline job placement plans post training
 - vi. Identify operating budget and funding
 - c. Use of funds
 - i. Outline and justify anticipated expenses.
 - ii. Provide a detailed budget.
 - iii. Respondent should also provide a detailed plan identifying any and all subcontracting opportunities associated with this project and explain how Minority- and Women-owned Business Enterprises ("MWBs") and Service-Disabled Veteran-owned Businesses ("SDVOBs") would be utilized.
6. Commitment letters from industry and educational partners demonstrating the services, assistance and or support that will be provided to the Applicant. Partners committing financial and staff resources should clearly identify the value of such resources by year.

IV. Review Criteria and Process

ESD will balance individual application scores.

For the review of eligible applications, ESD has established the following criteria to be applied in accordance with the review process set forth in section IV. B below.

In addition to addressing the review criteria stated below, refer to the application instructions in section III of this RFA for specific items that must also be addressed.

A. Review Criteria

1. Ability to Deliver the Project (15 points)
 - a. Experience of the Applicant Institution and the staff proposed to deliver on the capital project and associated workforce training and education programs. (10 points)
 - b. Demonstrated operating budget. (5 points)
2. Knowledge of Regional Industry Sector workforce needs (30 points)
 - a. Knowledge, experience and skills of the organization and the staff to identify the workforce needs of the target industry and ability to fulfill those needs.
4. Project Readiness and Workplan (15 points)
 - a. Overall work/action plan. (5 points)
 - b. Measurable deliverables and completion dates. (10 points)
5. Use of Funds (20 points)
 - a. Quality of the applicant institution's justification/rationale for the use of the requested funds.
6. Proposal Clarity (10 points)
 - a. Quality of proposal's organization, clarity, and adherence to page limitations.
7. Letters of Support (10 points)
 - a. Letters from elected officials and stakeholders.

B. Review Process

Reviewers may include ESD staff, staff from federal or other State agencies, and individuals selected from the science, business, and academic communities. The reviewers will adhere to the process described in this section and will apply the review criteria detailed above. ESD may limit the number of proposals a reviewer is required to evaluate. Each proposal will be reviewed and scored by at least three reviewers.

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

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

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

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

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

IV. SUBMISSION OF APPLICATIONS

All applications should be submitted via the Dropbox:
<https://www.dropbox.com/request/IrIIIbLwxChjLkif9Cph>
no later than Friday, March 31, 2023, by 5:00 PM EST.

Proper format: Please create a folder with company name – RFA title – date of Submission.

example: **IBTXX Inc – LI Workforce Development – 01.12.23**

All your documents should be included in that folder. Once you're ready to upload the folder in the Dropbox choose the option "Add folder from computer". All documents within the folder should be properly labeled as well.

V. QUESTIONS

All questions, comments, requests for clarification or any other communication regarding this RFA must be submitted by email to LIWorkforceDev2023RFA@esd.ny.gov no later Friday, February 24, 2023, by 3:00 PM EST. Your subject line should state: "[Name of Applicant] – RFA Inquiry, Long Island Workforce Development Training Center".

VII. GENERAL PROVISIONS

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

- i. amend, modify or withdraw this RFA;
- ii. revise any requirement of this RFA;
- iii. require supplemental statements or information from any responsible party;
- iv. accept or reject any or all responses hereto;
- v. extend the deadline for submission of responses hereto;
- vi. negotiate potential contract terms with any Bidder;
- vii. communicate with any Bidder to correct and/or clarify responses which do not conform to the instructions contained herein;

- viii. cancel, or reissue in whole or in part, this RFA, if ESD determines in its sole discretion that it is its best interest to do so; and
- ix. extend the term of any agreement on terms consistent with this RFA.

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

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

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

VIII. SUBMISSION REQUIREMENTS

A. PROCUREMENT FORMS AND REQUIREMENTS

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

1. Conflict of Interest
2. 139 J&K
3. Vendor Responsibility Questionnaire
4. Insurance Requirements
5. Non-Discrimination and Contractor and Supplier Diversity Forms - <https://esd.ny.gov/sites/default/files/OCSD-1-Policy-Statement.pdf>
6. W-9

1) Conflicts of Interest

Respondent must attest it has read, understood and will comply with the following provisions <https://esd.ny.gov/sites/default/files/Conflict-of-Interest-Attestation-June-2019.pdf>. ESD shall have the right to disqualify any respondent to this RFA or terminate any contract entered into as a result of this RFA should ESD determine that the Respondent has violated any of these requirements.

- A. Gifts and Offers of Employment:** Respondent has not and shall not during this procurement and during the negotiation of any contract resulting from this

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

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

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

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

State Finance Law Sections 139-j and 139-k (collectively, the "Procurement Requirements") apply to this RFA. These Procurement Requirements: (1) govern permissible communications between potential Bidders and ESD or other involved governmental entities with respect to this RFA; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFA. Compliance with the Procurement Requirements requires that all communications regarding this RFA, from the time of its issuance through final award and execution of any resulting contract (the "Restricted Period"), be conducted only with the designated contact persons listed above; the

completion by Bidders of the Offeror Disclosure of Prior Non-Responsibility Determinations, and the Offeror's Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC web site under "RFPs/RFQs"); and periodic updating of such forms during the term of any contract resulting from this RFA.

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

https://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

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

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

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

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

3. Vendor Responsibility Questionnaire

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

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

choose to complete and submit a paper questionnaire. Please include a copy of your Vend-Rep submission receipt or paper questionnaire with your proposal.

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

4. Insurance Requirements

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

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

5. CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR §§140-145, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and Women-owned Business Enterprises ("MWBE") and the employment of minority group members and women in the performance of ESD contracts.

BUSINESS PARTICIPATION OPPORTUNITIES FOR MWBEs

For contracts resulting from this solicitation, ESD may establish a goal for MWBE participation based on the scope of work and project description identified in the RFA response. Such contracts may set forth additional requirements that will encourage business participation opportunities for MWBEs. A contractor ("Contractor") on any contract resulting from this

procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that ESD may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.

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

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

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

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

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

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

- B.** If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at

OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.

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

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

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

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or application in response to this solicitation, the respondent agrees with all of the terms and conditions in [SCHEDULE B – PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSIENSS ENTERPRISES: REQUIREMENTS AND PROCEDURES](#). The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the “Work”), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, OCSD-1, to ESD with its bid or application.

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

Pursuant to Executive Order #162, contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis. Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

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

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

Form OCSD-2: <https://esd.ny.gov/sites/default/files/OCSD-2-Staffing-Plan.pdf>

Form OCSD-3:

<https://esd.ny.gov/sites/default/files/OCSD-3-Workforce-Utilization-Report.xlsx>

Form OCSD-4: <https://esd.ny.gov/sites/default/files/OCSD-4%20Utilization%20Plan.pdf>

Form OCSD-5: <https://esd.ny.gov/sites/default/files/OCSD-5-Waiver-Request-Form.pdf>

Form OCSD-6: <https://esd.ny.gov/sites/default/files/OCSD-6%20-%20Contractor%20Compliance%20Payment%20Report.pdf>

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

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

Article 17-B of the New York State Executive Law provides for more meaning 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 form maximum feasible participation in the performance of ESD contracts.

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

Contract Goals

- A.** For purposes of this solicitation, ESD will establish a goal based on the scope of work and project description identified in the RFA response. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf. Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

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

SDVOB Utilization Plan

- A.** In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form OCSD-4.

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

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

- D.** If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by ESD, a request for a partial or total waiver of SDVOB participation goals on OCSD-5. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or application.

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

- a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If ESD determines that the Bidder has failed to document good faith efforts.
- F.** If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G.** Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, ESD shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

Request for Waiver

- A.** Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at ESD for guidance.
- B.** In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form OCSD-5, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for a waiver is submitted with the SDVOB Utilization Plan and is not accepted by ESD at that time, the provisions of clauses II (C), (D) & (E) will apply if the documentation included with the Bidder's/Contractor's waiver request is complete, ESD shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C.** Contractor shall attempt to utilize, in good faith, the SDVOB identified within the SDVOB Utilization Plan, during the performance of the Contract Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D.** If ESD, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (OCSD-6) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regard to such non-compliance, ESD may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to OCSD.

Required Good Faith Efforts

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

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

Monthly SDVOB Contractor Compliance Report

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

Breach of Contract and Damages

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

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

6. W-9 Form

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

"Not in the labor force" is defined as people who do not meet the criteria to be classified as either employed or unemployed (<https://www.bls.gov/cps/definitions.htm#nilf>) Underemployed individuals as utilized in these guidelines refer to individuals in a job below their skill or educational level. Low-Income individuals as defined under WIOA, <https://www.govinfo.gov/content/pkg/PLAW113publ128/pdf/PLAW-113publ128.pdf> (page 11).

Glossary of Terms Used Throughout the RFA

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

Applicant: An eligible Partner, Partner Organization, University, or University-Affiliated Research Institute, or a collection of such institutions requesting designation as an SBIR Center under this RFA.

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

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

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

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

Indirect Cost(s) or Indirect Cost Rate: Defined by Federal OMB Circular A-87 as the rate used for allocating those common costs that cannot be specifically allocated to a particular project or activity. A cost may not be allocated as an Indirect Cost if any other cost incurred for the same purpose in like circumstances has been assigned as a direct cost.

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

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

Not in the Labor Force: is defined as people who do not meet the criteria to be classified as either employed or unemployed (<https://www.bls.gov/cps/definitions.htm#nilf>).

Underemployed Individuals: as utilized in the RFA refer to individuals in a job below their skill or educational level.

Low-Income Individuals: as defined under WIOA, <https://www.govinfo.gov/content/pkg/PLAW113publ128/pdf/PLAW-113publ128.pdf> (page 11).

Required Forms

- RFA Application

APPENDIX C: Administrative Proposal (Contractual Requirement Forms)

1. Conflict of Interest Form

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

2. 139 J&K

https://cdn.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_J&K.pdf

3. Vendor Responsibility Questionnaire –

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

4. Non-Discrimination and Contractor and Supplier Diversity Form -

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

5. W9 Form -

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