



**Empire State
Development**

New York State's Emerging and Regional Manager Fund Request for Applications For Fund Managers

Issued: November 17, 2022

Designated Contacts for this Request for Applications:

Primary Contact: Jennifer Tegan, Managing Director NY Ventures

Secondary Contact: Ralph Volcy, Procurement Director

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

NYSManagerFundRFA@esd.ny.gov

Applications must be sent to the designated Dropbox:

<https://www.dropbox.com/request/IOiqIMpD2FYbQKiR72kC>

FIRST ROUND APPLICATIONS DUE DATE AND TIME:

On or before 3:00 PM EST on December 19, 2022.

Additional timing parameters are detailed in the request for applications table.

I. INTRODUCTION

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

A. Program Summary

As part of the State Small Business Credit Initiative funding New York State received from the United States Treasury, ESD seeks proposals from applicants that are eligible Investment Entities (defined below, and alternatively referred to as “Applicants”) for its Emerging and Regional Manager Program Fund (“the Fund” or the “Program”). The Fund will make monies available to selected Investment Entities to increase the amount of seed and early-stage investment capital available to eligible New York State (“State”) small businesses. The Program will make equity investments in funds managed by the Investment Entities, and the Investment Entities will make qualified investments in eligible small businesses in the State, including investments in business enterprises owned and controlled by socially and economically disadvantaged individuals (“SEDI-Owned Businesses,” as defined in 12 U.S.C § 5701(15) and implementing regulations, which definitional standards are expressly adopted and incorporated herein by reference).

NYS will provide the selected managers an investment commitment that is a maximum commitment of no greater than 25% of the total investment capital of the managers base fund with a total minimum commitment of \$2 million and a maximum commitment of \$15 million (“Base Fund”).

The Fund is authorized by the New York State Urban Development Act (the “Act”) Section 16-u. Please see the Emerging and Regional Program Fund Rules and Regulations (the “Program Regulations”) attached as Exhibit I. The Program Regulations include applicable definitions used in this RFA and Program information.

B. Request for Applications Schedule

Release of Request for Applications	November 17, 2022
This RFA will remain in Vigor for a period of 5 years or until all funds are depleted.	
First Round Date for Submission of Questions	November 28, 2022
Potential applicants will have the ability to submit their questions via the designated email throughout the lifespan of the program for all subsequent rounds.	
Deadline for ESD to Respond to First Round Questions	December 9, 2022 by 3:00 PM

ESD will continue to respond to all Inquiries on the second Wednesday of each month for all subsequent rounds.	
First Round Submission Deadline	December 19, 2022 by 3:00 PM
Applications will be retrieved from the Dropbox on the 2 nd Wednesday of every month.	
Step I Review Complete & Invitation to Participate in Step II Review	15 days after original submission deadline
Announcement of Award	30-60 days after panel
Anticipated Agreement Start Date(s)	Approximately 30 days after notification of award

II. PROGRAM GUIDELINES

A. Investment Fund Managers

ESD seeks applications from first, second, or, in some cases, third time venture capital fund managers, or those that have offices located in or that are serving regions of New York State that are traditionally underserved by venture capital. Eligible applicants include for profit funds and non-profit regional and local economic development organizations, technology development organizations and research universities that make seed and early-stage investments in New York State companies.

B. Beneficiary Companies

The Program funds provided will be required to be used to support eligible beneficiary companies ("Beneficiary Companies") in the state. Eligible Beneficiary Companies include the following:

- a. Seed or Early Stage Small Businesses (Small Businesses as defined in the Program Regulations) located in New York State. Prior to the investment of Program funds in a Beneficiary Company, the Beneficiary Company must agree, pursuant to a written agreement satisfactory to the Corporation, that the Beneficiary Company will be, located and remain located within the State for a period satisfactory to the Corporation. In the event a Beneficiary Company breaches this obligation, restitution must be made in a manner satisfactory to the Corporation, and such restitution will be specified in the investment agreements.
- b. An Investment Entity shall invest Program funds in a Beneficiary Company on the same terms as other investors in the financing. The Investment Entity must also invest its own private capital in a proportionate amount as defined in the investment agreements. Under no circumstances will an Investment Entity invest more than \$5,000,000 of Program Funds in a Beneficiary Company nor will it invest Program Funds in any single round of equity financing that is a total

of more than \$20,000,000.

- c. Program funds may be used for follow-on investments in portfolio companies, as defined in the Program Regulations, subject to the investment, conflict of interest and exceptions set forth above.
- d. Investments in Beneficiary Companies may take the form of equity or hybrid Investments, including convertible debt and SAFEs. (See Program Regulations for definitions.)
- e. Investment entities will make individual investment decisions.
- f. Beneficiary companies who qualify under the definition of SEDI-Owned Businesses should be considered.
- g. Investment Entities and Beneficiary Companies are subject to the terms and conditions set forth in the SSBCI Capital Program Policy Guidelines, as such may be amended from time to time (<https://home.treasury.gov/system/files/136/SSBCI-Capital-Program-Policy-Guidelines.pdf>), and any applicable Allocation Agreement(s) entered into with the United States Treasury.
- h. All investments made in Beneficiary Companies must be matched by other sources of private capital at a ratio equal to or greater than (1:1) at all times.
- i. Funding provided by the State of New York, or other public sources of capital, including but not limited to, New York Ventures, shall not be counted toward satisfying the matching requirements for an Investment Entity.

C. Investment Period

The investment period for Investment Entities to invest all Program funds in Beneficiary Companies shall generally be five years or less.

D. Guidelines and Requirements

To be eligible to receive investment award proceeds from ESD, all applicants must:

- a. Primarily focus their investing activities on seed and early stage businesses.
- b. The Corporation shall distribute Program funds promptly, pursuant to a disbursement process agreed to between the Corporation and the Investment Entity in order to enable the Investment Entities to fulfill commitments to Beneficiary Companies in a timely manner.
- c. The Corporation and each Investment Entity receiving funds shall enter into one or more written agreements that are consistent and in compliance with the Act, including Section 16-u thereof, Program Regulations, and other applicable laws and regulations.
- d. The Corporation may actively participate on the limited partner committee (or equivalent) with the participating Investment Entity and other investors.

- e. Returns on investments or interest accrued with respect to Program funds received by an Investment Entity through the Fund shall be returned to the Corporation in accordance with the agreements entered into between the Investment Entity and the Corporation.
- f. Each Investment Entity will be required to market the Fund to other potential investors and Beneficiary Companies.
- g. Each Investment Entity shall deposit both returns and interest earned into a bank account in a State or Federal chartered banking institution satisfactory to the Corporation.
- h. Applicants must be legally able to receive and use the proceeds as herein stated; meet any other requirements herein stated for the specific purpose of the Program; be in good standing with any other State programs, and be current with all reporting requirements.
- i. The selected Applicants will assume responsibility for the performance of all required services, whether or not subcontractors are involved.

E. Investment Entity Compensation and Returns

An Investment Entity may receive fees and Carried Interest on Capital Gains, as defined in the Program Regulations. The Applicant will be asked to propose a compensation structure, and will be evaluated in part on its competitiveness. Compensation to the Investment Entity and returns to the Corporation will be detailed in the agreements to be entered into between the Investment Entity and the Corporation.

F. Investment Amount

NYS will provide the selected managers with a Base Fund – i.e., an investment commitment that is a maximum commitment of no greater than 25% of the total investment capital of the managers base fund with a total minimum commitment of \$2 million and a maximum commitment of \$15 million.

F. Additional Conditions

- 1. ESD will establish reporting requirements to account for the utilization of proceeds by the Investment Entity. The monies are to be used only for the purposes stated in the operating agreements between ESD and the entity, or otherwise approved, in writing, by ESD; and

2. All activities generated by funding from ESD, or toward which ESD proceeds are used, shall be conducted according to the standard business practices of the recipient organization and any agreements with ESD.

III. SCOPE OF WORK

The Program will make awards available to Investment Entities for the general purpose to provide investment capital to Beneficiary Companies:

A. Provision of Investment Entity Capital Allocations

1. Allocated Funds may be used to provide Investment Capital to Seed and Early Stage Small Business located in New York State for the purposes of growing those companies in the State of New York.
2. Up to 1.71% of Allocated Funds per year may be used to provide Services to Beneficiary Companies. These services can include, for example, financial management, operational guidance, IT consulting and connecting portfolio companies to potential customers, investors, board members and officers. Investment Entities will be required to provide annual certification that such services were provided.

Preference will be given to Investment Entities that emphasize the use of Capital Allocations to support and provide access to capital for Beneficiary Companies that are in low- and moderate-income, minority and other underserved communities (collectively, “underserved communities”). Underserved communities include rural communities and communities undergoing economic transitions.

IV. APPLICATION INSTRUCTIONS

Responses to this Request for Applications (RFA) must include a complete application information sheet, and all of the information requested in section V, below. If certain requested information or attachments are not available or applicable, please note in the narrative, on the checklist or within a particular attachment as necessary. Proposals that are not complete may not be reviewed by the Corporation. Please organize your proposal in the order presented and provide tabs for each of the major sections of the proposal as well as for each attachment. Each section in the application will have page limits. Please read each section carefully and adhere to the page limitations for each section.

V. APPLICATION – Investment Entities Applicant Information Sheet

PART I: ORGANIZATION INFORMATION			
1	Legal Name of Organization		
2	Organization Address City / State / Zip		
3	Organization County		
4	DBA name if applicable		
5	Applicant Contact Name and Title		
6	Applicant Contact Address City / State / Zip		
7	Applicant Phone Number	Contact Email:	
8	Form of Business: <input type="checkbox"/> For-Profit <input type="checkbox"/> Not-For-Profit <input type="checkbox"/> Local Development Corporation	<input type="checkbox"/> University <input type="checkbox"/> Other:	
9	Federal Tax ID Number:		
10	DUNS Number		
11	NYS Charity Registration #		
12	NYS Unemployment Insurance #		
13	OTHER ESD FUNDING: List any other prior relevant New York State assistance applied for or received:		

PART II: Executive Summary (3 pages maximum, narrative only except where indicated)

14	Fundraising materials: please attach the Investment Entity fundraising pitch deck (Attachment A) and private placement memorandum (Attachment B).
15	Business summary: provide an overview, including ownership structure and range of activities, including any that are unrelated to the Fund’s Investment strategy of the Fund or its Key Managers. Include the amount of funds being requested.
16	Fund strategy. Summary of proposed investment thesis, strategy and target markets. Include projected investment volume and expected initial investment size and stage, strategy and planned reserve for follow-on investments, utilizing Program funds if award is received.
17	Fund structure. The expected amount, source and commitment of matching funds from the Applicant including what funds have been committed to date, if any.
18	Fund/Manager track record. Summary of investment track record, as it relates to your strategy as a fund manager, including volume, typical profile of portfolio company, industries invested in, typical investment structure, typical profile of a portfolio company, co-investments secured, follow-on investments made, and overall investment performance. Please also include the number of investments made, if any, in companies located in New York State.

PART III: Company Information and Management (7 page maximum for narrative portion)

19	Describe the Applicant's status as an eligible entity to administer the Funds being applied for. Describe the Applicant's ownership corporate and management structure. Please note, the year the Applicant was established, and the company focus or mission. (narrative)
20	Provide all relevant organizational documents related to the Fund Entity. (Attachment C)
21	Annual Reports, financial statements and audits (for the past 3 years), if available, from the Fund Entity or related Fund Entities (Attachment D).
22	Describe the Applicant's overall financial performance over the past 3-5 years. Identify the type of financial statements included with the application – audited, reviewed, internally prepared; provide a narrative for significant items of note on financial statements.
23	Describe the roles, capacity and skills, size and experience of the Applicant's management team and list key staff. Please confirm if any of the firm's current or former team member ever filed for bankruptcy or had an SEC action taken against them (narrative). Include resumes/CVs, titles and responsibilities of key team members (Attachment E).
24	Provide a list of existing and potential co-investors with whom you have worked previously or have a current relationship with including contact information for up to 5 as references (Attachment F).
25	Describe the Applicant's operating policies and procedures, including deal sourcing, deal review and due diligence, investment approval, portfolio management, portfolio company monitoring and oversight, and financial management. Please include at least 1-2 case studies that demonstrate the Applicant's past work and experience (Attachment G). If applicable, provide a sample Investment Memo (Attachment H).

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Provide a fund model that translates your investment strategy into a hypothetical portfolio of investments that matches your portfolio composition and total fund size. Include ownership targets for each initial investment and your expected performance (**Attachment I**).

PART IV: Investment Experience and Track Record

27	Describe the Applicant’s capacity to source, evaluate, and finalize investments in seed stage companies in the State, in line with the investment strategy including the specific outreach and deal sourcing plan the Applicant would employ to identify potential investments, including those from underserved regions and underrepresented founders. Identify existing and potential partners in the State. (narrative)
28	Describe the fund structure for the proposed investments. Would the investments be made from a dedicated fund, a sidecar fund to an existing fund, or some other structure? (narrative)
29	Describe the projections and expected commitment period for making investments. Describe the expected investment structure, average deal size, etc. (narrative)
30	Describe the expected amount and source of required non-state matching funds, including general partner contributions, those secured from the Applicant’s other public and private sources, and third-party co-investment. Identify how much of those amounts are currently in hand. Describe the capacity of the fund and the methodology used to raise the additional funds required. List specific potential investors, including any written expressions of interest and possible investment amounts. (narrative and Attachment J)
31	Identify any differences in the proposed strategy from existing operating policies and procedures, or differences in the way the Applicant typically provides advisory services or participates in company governance. Identify any expected new partners and key staff, and include information on responsibilities, resumes and bios if not included above. (narrative)
32	Provide a sample of a typical investment term sheet. (Attachment K)
33	Fees and Returns – Given the section on fees and fund manager compensation in section IIIA, please propose a compensation structure for the Investment Entity, including any and all fees, charges, expenses, profit-sharing, performance bonuses, or any other fees, costs and/or expenses that will be payable to the Fund manager by the Fund or its investors. (narrative)
34	Describe how the Applicant will market funds to its target market and to specific communities, such as underserved areas of the State or to Socially and Economically Disadvantaged Individuals. (narrative)

35	Provide the names of any service providers with whom you plan to work to structure, administer and operate the fund. Describe your plan for how you will manage and administer the fund operation. Will you use a third party fund administrator?
36	If you have a standard due diligence questionnaire, please provide (Attachment L).

PART V: REQUIRED DISCLOSURES AND CERTIFICATIONS - The following sections are pre-requisites and certifications that must be in place for participation in the program.

DISCLOSURE AND ACCOUNTABILITY CERTIFICATIONS (NOTE: If your answer in 'YES' in any of the questions below, please provide an explanation in an attachment)		
37	1. Is the Investment Entity currently the subject of any litigation, or is any litigation threatened, which would have a material adverse effect on the Company's financial condition?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	2. Has the Investment Entity or any of its affiliates ever been involved in bankruptcy, a creditor's rights or receivership proceeding, or sought protection from creditors?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	3. Has the Investment Entity ever settled a debt with a lending institution for less than the full amount outstanding?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	4. Has any senior manager or principal of the Investment Entity ever been convicted or any felony or misdemeanor, other than minor traffic violations, or are any such charges pending?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	5. Has the Investment Entity or any of its affiliates, been cited for a violation of federal, state, or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution or operating practices?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	6. Are there any outstanding judgments or liens pending against the Investment Entity other than liens in the normal course of business?	<input type="checkbox"/> YES <input type="checkbox"/> NO
	7. Is the Investment Entity delinquent on any New York State, federal or local tax obligations?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IRAN DIVESTMENT ACT		
39	Every proposal made to ESD pursuant to a competitive solicitation must contain the following statement, signed by the <u>Respondent on company letterhead</u> and affirmed as true under penalty of perjury:	
	<p>“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.”</p>	

VI. SELECTION CRITERIA

Applicants shall be evaluated on criteria including, but not limited to, the applicant's: (a) track record of success in raising investment funds and successfully investing them; (b) financial and management capacity to source deals, perform due diligence, evaluate the commercial potential of emerging technologies, and to provide management expertise and other value-added services to beneficiary companies; (c) demonstration of need in target market for seed and early stage investments in target sectors; (d) ability to secure the required non- State matching investment; (e) competitiveness and fairness of the proposed compensation structure; (f) ability to secure partnerships with local or regional stakeholders; (h) ability to direct funds to underserved populations and communities; and (i) other criteria that the Corporation determines is relevant to making investment decisions consistent with the purposes of the fund as set forth in subdivision one of this section.

A. Proposal Scoring

ESD will balance individual application scores with priorities for geographic distribution across NYS. The evaluation criteria will include the following:

• Completeness of the application and compliance of the application with the "Guidelines" section and other terms and conditions of this Request for Application	15%
• Organizational capacity and stability	35%
• Applicants capacity to illustrate a strategic plan to address the stated need and describe how ESD's assistance will help the grantee achieve this plan	40%
• Diversity Practices	10%

B. Additional Considerations

- 1) By submitting an application, each applicant authorizes ESD to contact any and all other persons identified in its application or in any investigation conducted by or on behalf of ESD or the State and obtain the release of pertinent financial and other information, as well as to obtain verification of the information provided by each applicant.;
- 2) ESD will not be held liable for any costs incurred by any applicant for work performed in the preparation and production of an application, nor for any work performed prior to written

authorization from ESD to proceed. All applications submitted will become the property of ESD;
and

C. ESD Rights

ESD reserves the right to:

- 1) Reject any or all applications received;
- 2) Award grants in any amount;
- 3) Require the submission of modifications or additions to applications as a condition of further participation in the selection process; and
- 4) Amend this Request for Applications.

VII. QUESTIONS

- A. All questions, comments, requests for clarification or any other communication regarding this Request for Applications must be submitted via the designated email NYSManagerFundRFA@esd.ny.gov with the email subject line: Request for Applications for Emerging and Regional Manager Fund.
- B. In addition, any changes, additions or deletions to this Request for Applications will also be posted on the NYS Contract Reporter, along with the electronic version of this application. Respondents should note that any necessary clarification must be sought by the deadline for questions set forth in the "Request for Applications Schedule" section in this application.
- C. Applicants are urged to check NYS Contract Reporter frequently for notices of any clarification of or changes, additions, or deletions to this Request for Applications.

VIII. SUBMISSION OF APPLICATIONS

- A. Applications must be submitted electronically via the Dropbox: <https://www.dropbox.com/request/IOiqIMpD2FYbQKiR72kC>
DO NOT SUBMITT APPLICATIONS VIA ANY OTHER METHOD.
It should be titled Request for Applications for Emerging and Regional Manager Fund.
- B. Applications submitted in a manner other than as described in these instructions (e.g., facsimile, hard copies) will not be accepted.

VIII. GENERAL PROVISIONS

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

- A. Amend, modify or withdraw this RFA;
- B. Revise any requirement of RFA;
- C. Require supplemental statements or information from any responsible party;
- D. Accept or reject any or all responses hereto;
- E. Extend the deadline for submission of application hereto;
- F. Negotiate potential contract terms with any applicants to this RFA;
- G. Discussions with any applicant to this RFA to correct and/or clarify application which do not conform to the instructions contained herein;
- H. Cancel, or reissue in whole or in part, this RFA, if ESD determines in its sole discretion that it is its best interest to do so; and
- I. Extend the term of any agreement on terms consistent with this RFA.

ESD may exercise the foregoing rights at any time without notice and without liability to any applicant or any other party for its expenses incurred in preparation of applications hereto or otherwise. All costs associated with applying to this RFA will be at the sole cost and expense of the applying firm. All information submitted in response to this RFA is subject to the Freedom of Information Law (FOIL), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person unless the content of the document falls under a specific exemption to disclosure. In addition, all applications may be discussed at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

IX. DEFINITIONS

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

A. Micro Business

A micro business which is a resident in New York State, independently owned and operated, not dominant in its field and employs ten or less person.

B. Small Businesses

A small business shall be deemed to be one which is resident in New York State, independently owned and operated, not dominant in its field, and employs one hundred or less persons.

C. For-Profit Independent Arts and Cultural Organization

A for-profit independent arts and cultural organization is a small or medium sized private for-profit, independently operated live-performance venue, promoter, production company, or performance related business located in New York State negatively impacted by COVID-19 health and safety protocols, and having one hundred or less full-time employees, excluding seasonal employees. The qualifying organizations under this definition may include businesses engaged in a field including, but not limited to, architecture, dance, design, film, music, theater, opera, media, literature, museum activities, visual arts, folk arts and casting.

D. Investment Entity

For eligibility determination purposes, an Investment Entity is an emerging private sector and regional fund manager raising Fund I, II or III that meets the following criteria:

- i) has a demonstrated ability to raise a minimum of \$7,500,000.00;
- ii) has a portfolio where program dollars do not represent greater than 25% of venture fund committed capital;
- iii) has resources, network(s), and demonstrated intent to invest in companies that are located in New York State; and
- iv) targets investment sectors that are technology related or high growth oriented (e.g., including but not limited to life sciences, advanced manufacturing, information technology).

D. Socially Disadvantaged Individual

As defined in 15 U.S.C. § 637(a)(5), socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

E. Economically Disadvantaged Individual

As defined in 15 U.S.C. § 637(a)(6)(A), economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the analysis shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual. In determining the economic disadvantage of an Indian tribe, the analysis shall consider, where available, information such as the following: the per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.

F. Socially and Economically Disadvantaged Individual

As defined in 12 U.S.C. § 5701(18), the term "socially and economically disadvantaged individual" means an individual who is a socially disadvantaged individual or an economically disadvantaged individual, as such terms are defined, respectively, under 15 U.S.C. § 637 and the regulations thereunder.

G. Socially and Economically Disadvantaged Business Enterprise

Pursuant to 12 U.S.C. § 5701(15), a socially and economically disadvantaged business enterprise is one that meets the following criteria:

- (A) if privately owned, 51 percent is owned by one or more socially and economically disadvantaged individuals;
- (B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and
- (C) in the case of a mutual institution, a majority of the Board of Directors, account holders, and the community which the institution services is predominantly comprised of socially and economically disadvantaged individuals.

H. Technical Assistance

Business technical assistance is provided to an entrepreneur to address ongoing or specific challenges or needs arising from COVID-19, such as application to an array of federal and state disaster programs that includes SBA disaster loans, Paycheck Protection Program, development of a business plan or the resolution of a production, supply chain, operation, resiliency, or marketing problem. When a business is in formation, monitoring will help define specific and/or

ongoing needs early. This assistance often is on a one-to-one basis (physically or virtually) in a consulting format.

I. New York Prequalification

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

X. 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. Non-Discrimination and Contractor & Supplier Diversity Requirements

Participating lenders shall adhere to ESD's Non-Discrimination and Equal Employment Opportunity ("EEO") policy. Where applicable, ESD may require lenders and other beneficiaries of the program to provide Equal Employment Opportunity (EEO) data in accordance with New York State regulations.

Additional information regarding the EEO requirements may be obtained through the ESD's Office of Contractor and Supplier Diversity 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.

Application Index of Attachments

Attachment A – Investment Entity fundraising pitch deck

Attachment B – Private Placement Memorandum for Investment Entity

Attachment C – Fund Entity Organizational Documents

Attachment D – Fund Entity or Related Fund Entities Annual Reports, Financial Statements, Audits for prior 3 years (if available)

Attachment E – Resumes and CVs of key team members

Attachment F – List of existing and potential co-investors including up to 4 references (including contact information)

Attachment G – Case Studies demonstrative of applicant’s past investment work

Attachment H – Sample Investment Memo (if applicable)

Attachment I – Fund Model

Attachment J – Capitalization of Fund Entity (include potential/committed investors and expressions of interest, if available)

Attachment K – Sample/Typical Term Sheet

Attachment L – Standard DDQ (if available)