



**Empire State  
Development**

**NEW YORK STATE URBAN DEVELOPMENT CORPORATION  
d/b/a Empire State Development**

**Buffalo Billion Investment Strategy Implementation  
Support Services for 2016-2017**

**Request for Proposal**

**PROPOSAL DUE DATE: May 16, 2016 at 2PM  
(Late proposals cannot be accepted)**

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## **I. BACKGROUND**

### **NEW YORK STATE'S OBJECTIVES**

In January of 2012, Governor Cuomo pledged a historic \$1 billion for the economic redevelopment of the Buffalo/Niagara Region. The people of Buffalo have begun to believe that the region has positive momentum and there is a sense that Buffalo really is rising again. The Governor's commitment has made clear that New York State is committed to the future of Buffalo and he has given Buffalo a once in a lifetime chance to take advantage of this public and visible commitment to move the region forward in an unprecedented manor.

As a result of this commitment the community has come together and gone to work to develop a plan for how Western New York can best use the Governor's investment to stimulate private investment, create jobs, and accelerate growth. The Governor asked the Western New York Regional Economic Development Council to work with Empire State Development to lead the development and implementation of the Buffalo Billion Investment Strategy. Empire State Development then engaged several metropolitan development experts to forge the Buffalo Billion Investment Strategy.

Buffalo has some world-class assets that will position it to compete for opportunities in the new economy. Some of these assets include a platform for tourism in the beauty of Niagara Falls and the exceptional architecture of the city of Buffalo; strength in high-growth advanced manufacturing subsectors such as materials processing and chemicals; concentration in life sciences, with opportunities to further commercialize cutting-edge research; access to land that is ripe for development; supportive infrastructure; and a pervasive civic pride entailing a sense of ownership, belonging, and optimism in residents that other cities would be lucky to have.

Hundreds of community stakeholders participated in developing the Regional Council's plan for the "Buffalo Billion". Through working sessions, conferences, one-on-one interviews, surveys, and focus groups, leaders of both large and small businesses, universities and colleges, community foundations and nonprofits, and both regional and municipal governments have contributed to the plan. The plan is simple: the region will draw upon the collective capacity of the public, private, and nonprofit sectors to make better use of Buffalo's world class assets; elevate Buffalo's relative areas of strength with investment in workforce and innovation that could transform their ability to compete; and create opportunities for new ideas and sectors to be born and to flourish in an environment designed for business development.

But Buffalo has more than just a plan. It includes several specific signature initiatives requiring immediate implementation. An implementation structure and governance approach is defined, which will ensure effective implementation of the Buffalo Billion Investment Strategy which includes stakeholder engagement and commitment and, perhaps, most importantly, the community momentum to make these first initiatives a reality.

The Buffalo Billion's signature initiatives include:

- **Buffalo High-Tech Manufacturing Innovation Hub:** a state-of-the-art anchor hub facility for high tech and green energy businesses at RiverBend in the City of Buffalo, formerly Republic Steel. The facility will be complete in late 2016 will house SolarCity Corporation,

the nation's largest solar provider. It is expected that the project will result in \$5 billion in private investment in the State and create approximately 3,000 jobs.

- Buffalo Niagara Tourism Program: a regional tourism program to leverage the world-class tourism assets in Niagara Falls and the City of Buffalo through a more coordinated and sophisticated marketing strategy; investments and increased programming in the Niagara State Park; investments in other regional tourism assets and amenities; and the creation of regional offerings.
- Buffalo Breakthrough Business Challenge: a world-class business plan competition spearheaded by 43 North, Inc. to catalyze the region's entrepreneurial ecosystem. Winners will receive initial funding, incubator space, mentorship and introductions to leading venture capital firms.
- Better Buffalo Fund: to make targeted investments through a dedicated fund to support high impact economic and community development projects. A competition will determine the best investments, based on overall strategic fit, impact, proven capacity for execution and commitment of additional funds.

The full plan can be found at [http://regionalcouncils.ny.gov/themes/nyopenrc/rc-files/westernny/Buffalo Billion Investment Development Plan February 2013.pdf](http://regionalcouncils.ny.gov/themes/nyopenrc/rc-files/westernny/Buffalo_Billion_Investment_Development_Plan_February_2013.pdf)

Implementation of the Buffalo Billion plan is well underway. In 2013, ESD began working with a contracted "Delivery Unit" to support the implementation of the Buffalo Billion Investment Plan. Upon expiration of the current Delivery Unit Contract in June 2016, ESD is seeking a contractor to provide on-going implementation support of the critical Buffalo Billion projects and initiatives. The following responsibilities are needed to support on-going implementation of the Buffalo Billion Investment Strategy.

Specific roles and responsibilities for each of the entities in the organization structure are as follows:

1. The WNY Regional Economic Development Council
  - a. Objectives:
    - i. Ensure synergies across strategies are achieved
    - ii. Ensure the goal (transforming the economy) and total impact are achieved
  - b. Key Tasks:
    - i. Analyze performance and recommend strategy/initiative adjustments
2. Buffalo Billion Delivery Unit – ***this unit will primarily consist of contractors to ESD through this solicitation.***
  - a. Objectives:
    - i. Ensure that the right funding and infrastructure is in place for delivery of Signature Initiatives
    - ii. Support the Council by providing objective information and advice on progress
    - iii. Support the execution of Signature Initiatives through advice and assistance in implementation
    - iv. Communicate transformation to public

- v. Responsible for budget requests going forward
- b. Key Tasks:
  - i. Identify sufficient funding sources to meet Signature Initiative needs
  - ii. Create and train team
  - iii. Create and embed tools and routines
  - iv. Commence problem solving assistance on Signature Initiatives
  - v. Commence tracking and monitoring
  - vi. Provide direct implementation services to initiatives as needed to augment “Signature Initiative Owners;” primarily around
    - ❖ Workforce
    - ❖ Revitalization

## II. SOLICITATION

Through this announcement, the New York Urban Development Corporation d/b/a Empire State Development (ESD) is soliciting proposals from firms specializing in economic development project management that will help implement the existing Buffalo Billion Investment Strategy to leverage the \$1 Billion state investment into transformational development positively impacting the City of Buffalo and surrounding area. The objective of this investment is to realize a significant, regional impact and return on New York State's investment in the Buffalo economy.

ESD is seeking a qualified contractor to provide full-service project management services including stakeholder engagement, metropolitan development initiative implementation support and project management. ESD is particularly interested in firms with experience in transformative, turnaround economic development strategies and successful track record of project management experience to implement plans. The term of the contract is for one year with the option for ESD to renew for additional one year term. Should ESD exercise its option to renew, the successful bidder will be required to provide the additional service on the same terms and conditions and at the same hourly rates identified in this request and its proposal for the first year of services.

New York State certified Minority and Women-owned Business Enterprises (MWBEs) and Service-Disabled Veteran-Owned Businesses (SDVOBs) are especially encouraged to bid. Note that a joint venture proposal to perform the functions solicited is acceptable. MWBEs and SDVOBs may partner with other vendors in substantive ways to submit bids.

ESD requires contractors with demonstrated experience in the following:

- ❖ Track record of delivering results across multiple work streams;
- ❖ Experience developing and implementing comprehensive metropolitan business plans in other former industrial based regions including operational and financial plans for investment and implementation with demonstration of return on investment;
- ❖ Planning and implementation support for capital development projects.
- ❖ Strong familiarity with cutting edge, transformative economic strategies and best practices in other regions of the US and globally;
- ❖ Detailed understanding of the Buffalo region economy and the Buffalo Billion Investment Strategy;
- ❖ Improving economic opportunity throughout regions, especially for historically disadvantaged populations, to create sustainable, inclusive, long-term economic growth that promotes diversity and reduces disparities.
- ❖ Stakeholder engagement to build community support and validation of stages of plan implementation; and
- ❖ Engaging diverse communities across the categories of income, race/ethnicity and geography to ensure all interests and perspectives are infused into the implementation process.

### III. SCOPE OF SERVICES AND DELIVERABLES

The chosen consultant will serve as the “Buffalo Delivery Unit: supporting ESD in successful implementation of the Buffalo Billion Investment Strategy for a one year term with ESD having the option to extend the term for an additional year.

#### **Delivery Unit – Detailed Charter:**

*Purpose: what is it?*

- Support Signature Initiative owners during implementation and operation through problem solving, planning support and guidance
- Track and report on the progress of the Signature Initiative to the Regional Economic Development Council
- Assess Signature Initiative efficacy
- Lead budget requests
- Design new Signature Initiatives

*Approach: What does it do?*

- Work with Signature Initiative owners to anticipate and resolve challenges, and push the implementation and performance of the Signature Initiatives
- Augment capacity of Signature Initiative owners as needed to ensure initiative progress according to schedule
- Track progress and report to the strategy Implementation Work Group
- Analyze the strategy’s progress and recommend changes
- Design new Signature Initiatives within each strategy

*Composition: Who is in it?*

- Head of Delivery Unit – ESD Regional Director
- Support team through contractor

#### **DELIVERABLES:**

There are several key overall objectives for the next year.

- Achieve agreed upon targets and milestones across multiple initiatives: key initiatives need to achieve an aggressive progress trajectory that is broadly acknowledged by key stakeholders.
- Install execution capabilities, organizational structures, and leadership: ensure continuity of and, as needed, continued development of organizations, leaders, and staff to execute high priority strategies and signature initiatives.
- Deepen community stakeholder engagement: build on the work done to date to ensure there is comprehensive engagement of and communication with the private sector, academic institutions, and all other important community stakeholders on progress to date and goals going forward; inspire broad public support and commitment by communicating the Buffalo Billion plan broadly, explaining key milestones, bringing transparency to what is being done, and sharing results and progress.

Specific tasks required in the scope of work:

1. Provide overall senior project management across all Buffalo Billion Investment strategies and initiatives. Interim project management (delivery unit team service) is being provided by a combination of ESD personnel and a short term consultant agreement. Long term project

management will be provided by the successfully winner of this solicitation. Support will be needed to:

- a. Implement a rigorous performance management approach that will help ensure impact and responsible use of New York State resources;
  - b. Support overall program management effectively;
  - c. Assist in updating and implementing an overall integrated work plan with “reasonably unreasonable” timelines and milestones for each Signature Initiative and for the project as a whole;
  - d. Help ensure that the overall Buffalo Billion program is managed well and that deep, proactive communications and community engagement continue;
  - e. Contribute to coordination across all Buffalo Billion implementation work streams and ensure appropriate sequencing of activities.
2. Implementation of Signature Initiatives: Support high priority Signature Initiatives and establish or build on the infrastructure needed to ensure their long-term success. To meet these objectives and maintain the considerable momentum generated to date, ESD has prioritized strategies and Signature Initiatives that require external support in the next year. They include: Revitalization, Workforce Development and Tourism initiatives. Specific activities for each:
- a. Support the Initiative Implementation Work Groups for each of three Signature Initiatives (Workforce, Tourism & Revitalization) responsible for overseeing the implementation of the strategies and Signature Initiatives;
  - b. Track and report progress to key stakeholders, adjust plans accordingly;
  - c. Serve as Signature Initiative leadership for Workforce and Revitalization; support leadership at USA Niagara for tourism; transfer knowledge of strategies/ initiatives to leaders and staff as they join;
  - d. Oversee/support execution of key activities outlined in the high priority Signature Initiative business plans:
    - i. Tourism key activities
      1. Enhanced regional tourism marketing campaign developed and implemented;
      2. Visitor market research undertaken and completed;
      3. On-going solicitations for private sector partners to (re)develop key properties in Downtown Niagara Falls to add tourist amenities;
    - ii. Workforce key activities
      1. Continue implementation of a pilot program for advanced manufacturing rapid right skilling;
      2. Develop an advanced manufacturing and energy training network/facilities to meet gaps in training needs.
      3. Develop coordinated and stackable curriculum for high demand skill areas in Manufacturing
      4. Support implementation of new Middle College partnership between Burgard and Alfred State College
      5. Support/guide implementation of a new workforce training center.
    - iii. Revitalization key activities
      1. Continue process and awards to projects for key revitalization activities including:

- Implementing Complete Streets, Improving Corridors and Greening Gateways;
  - Catalyzing Transportation and Transit Oriented Development
  - Investing in Buffalo's Downtown: Implementing the Buffalo Building Reuse Plan;
  - Redeveloping the Waterfront as a vital regional asset;
  - Revitalizing Target Neighborhoods.
2. Continue implementation of targeted neighborhood/commercial corridor development planning
- Finalize, with high stakeholder engagement and partnership with City of Buffalo, targeted neighborhood development plans
  - Coordinate implementation of neighborhood plans, developing new programs and/or leveraging existing programs

#### IV. QUALIFICATION REQUIREMENTS

1. Prior to the proposal due date for this RFP, your company must be a going concern with five years of experience in the project management consulting with a minimum of three years of experience working with metropolitan regions in economic transition to create competitive advantages to compel investment and create jobs. A joint venture proposal to perform these functions is acceptable.
2. Demonstrated experience of the firm and staff assigned to this project in implementing a regional business development strategy based on rigorous market analysis, best practices transformative economic strategies that include operational and financial plans for investment.
3. You must have the economic resources to pay expenses in advance of reimbursement from the State as well as the staff and administrative expenses itemized in your proposal (Budget). Said economic resources shall include the coincidental funds described on the Budget sheet.
4. As noted in Section V. *Selection Criteria*, bidders must supply a minimum of three references that can substantiate the quality of the bidder's work and service. Your references will be contacted to determine if they are consistently satisfied with your work and services.
5. If your company has performed similar services as those listed above for any New York State agency in the past, you must disclose the name of the agency, describe the scope of work provided, and state the rates charged for all services. ***You must also state whether you will agree to reduce those rates by 10% or more if awarded this contract, in order to comply with Executive Order #10.*** <http://www.governor.ny.gov/executiveorder/10>
6. In the event firms are submitting joint proposals, at least one of the firms must meet all the qualifications.

## V. SELECTION CRITERIA

Proposals that meet all the requirements of the RFP will be evaluated by the Review Committee based on the following Selection Criteria:

**Experience (30 points).** Demonstrated experience of the firm and staff assigned to this project in developing a regional business development strategy based on rigorous market analysis, best practices transformative economic strategies that include operational and financial plans for investment and implementation.

**Ability to perform the required services (30 points).** Evaluation of approach proposed to accomplish the Scope of Services and ability to perform scope in given timeframe. Demonstrate that the agency has sufficient capabilities, resources and staff to deliver high quality services on a short time frame and within budget.

**Consulting Approach (15 points).** How well the bidder meets the qualification requirements included in the RFP.

**Diversity Practices (5 points).** Respondents to the RFP will be evaluated for Diversity Practices using the attached Diversity Practices Scoring Matrix (See Attached Addendum included as Appendix F).

**Cost (20 points).** Evaluation of completed budget submitted with the proposal.

**References.** Proposals must include a minimum of three references (including the name and address of the organization, contact name and telephone number) that can substantiate the quality of the bidder's work to be considered for an award of this project.

ESD reserves the right to short list proposals and to interview prospective consulting teams prior to final scoring. ESD also reserves the right to seek final and best offers from bidders prior to making any contract award.

## VI. SUBMISSION OF PROPOSALS

Your proposal must include the following:

1. A narrative proposal (maximum 25 pages) encapsulating how you intend to assist ESD in meeting the objective within the parameters of the Scope of Services. At a minimum, the narrative should:
  - Identify the specific team members who will be on this project, their roles on this project, provide their resumes;
  - Explain your experience in similar metropolitan development initiatives of this scale including ability to demonstrate success and outcomes;
  - Demonstrate that the agency has sufficient capabilities, resources and staff to deliver high quality services on a short time frame and within budget. ESD expects the process to launch immediately after a contract is awarded and is providing a one year timeframe for completion from contract execution.
  - Explain how you will engage area stakeholders in the investment implementation strategy to help ensure appropriate community support;
  - Demonstrate your knowledge of best practice economic development implementation strategies in other communities;
  - Explain your approach, process and timeline for the engagement.
2. Scope of Services/Detailed Budget
  - A detailed scope of services with specific plans, including staff, time and budget allocation for the deliverables identified on pages 6-8 in Section III. For each task identified, list all proposed subcontracting, sub-consultant and/or independent contracting opportunities and indicate to which you have identified a NYS certified MWBE to perform such subtask. The selected consultant will be paid on a time and material basis in accordance with Schedule A - Conditions Applicable to the Corporation's Agreements for Materials/Services. All terms and conditions contained in Schedule A will be incorporated and made a part of the contract with the selected contractor. Schedule A can be found at <http://www.esd.ny.gov/CorporatInformation/Data/ScheduleA.pdf>
  - A detailed budget which shall include at a minimum:
    - (i) for each task identified in the scope of services, the expected hours dedicated to the task, the hourly rate for the expected individual(s) completing the task and the total expected cost for completion of the task;
    - (ii) a detailed list of all expected administration expenses, including telecommunications, supplies and other miscellaneous costs;

- (iii) travel expenses incurred which shall be reimbursed in accordance with State rates, as identified in Schedule A; and a total expected cost to ESD for completion of all tasks.
- Should ESD exercise its right to extend the contract with the selected contractor for an additional year, all terms and conditions of this request for proposal shall apply and the services shall be provided by the selected contractor at the same hourly rates as agreed to in year one.
- ESD has budgeted \$750,000 annually for the work to be provided pursuant to the terms of this request for proposal. While ESD reserves the right to accept proposals that exceed this amount, preference will be given to those proposals that do not exceed this amount.

### 3. Conflict of Interest Statement

Please submit a statement describing whether the representation of ESD would create any potential conflict of interest, or appearance of impropriety, relating to other clients/customers of the respondent or former officers and employees of ESD. Indicate what procedures will be followed to detect, notify ESD of, and resolve any conflicts.

Identify any past, pending or threatened state or federal litigation or proceedings of any administrative or ethics board or similar body proceedings to which you or any of your partners are a party and which would either materially impair your ability to perform the services enumerated herein, or, if decided in an adverse manner, materially adversely affect the financial condition of your firm.

Any firm selected pursuant to this RFP will be required to advise ESD of any developments during the term of this appointment with respect to existing and/or any new conflicts, civil or criminal legal investigations, pertinent litigation and/or regulatory action involving the firm or its employees which could impact the firm's role or ability to perform the consulting services.

### 4. Additional Requirements

Submission requirements and required forms are detailed in Section XI. RFP Review List, Part 1: Required Submissions (page 24)

#### **Inquiries and submissions**

***Ten (10) copies of each proposal and one (1) electronic copy on a USB must be received by May 16, 2016 at 2PM. Late proposals cannot be accepted. Faxed or electronically transmitted proposals will not be accepted.***

Proposals shall be delivered clearly labeled as "Buffalo Billion Investment Strategy Implementation for 2016-2017" to:

Christopher Schoepflin  
Regional Director, Western New York  
Empire State Development

95 Perry Street, Suite 500  
Buffalo, New York 14203-3030

**Submission of Questions:** All questions must be emailed to **Stephen Gawlik** at [stephen.gawlik@esd.ny.gov](mailto:stephen.gawlik@esd.ny.gov) with “**Submission of Questions**” in the subject line and be received by **May 4, 2016**.

**Responses to all questions of a substantive nature will be provided in writing, via ESD’s website (<http://esd.ny.gov/CorporateInformation/RFPs.html>) to all known potential bidders.** Bidders are encouraged to check the web site frequently for an updated list of questions and answers. A list of questions about the program that are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will also be posted on ESD’s web site, along with the electronic version of this RFP. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal and are urged to check ESD’s web site frequently for notices of any changes, additions or deletions to the RFP.

If you are unable to access the Web site, please contact Stephen Gawlik to arrange for alternate delivery. All questions and answers shall become a formal addendum to the RFP.

**Schedule of pertinent dates**

Release of RFP	April 22, 2016
Deadline for Submission of Questions	May 4, 2016
Submission of Proposals	May 16, 2016 at 2PM
Announcement of Successful Bidder	June 23, 2016 (tentative)
Contract Begins	July 1, 2016 (tentative)

## **VII. MWBE AND SDVOB 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's contracts.

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

#### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, ESD hereby establishes an overall goal of 30% for NYS certified MWBE 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 may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how ESD will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

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

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals;

and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract (“Bidder”) agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting ESD’s Office of Contractor and Supplier Diversity (OCSD) at [OCSD@ESD.NY.GOV](mailto:OCSD@ESD.NY.GOV). Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder’s MWBE requirements please see the attached MWBE guidance, “Your MWBE Utilization and Reporting Responsibilities Under Article 15-A.”

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 (Form OCSD-4) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD.

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

B. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) 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 and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

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

The Contractor will be required to submit a Contractor’s Quarterly M/WBE Contractor Compliance & Payment Report (Form OCSD-6) 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 Bidder/Contractor agrees with all of the terms and conditions of Schedule A – Conditions Applicable to Corporation’s Agreements for Materials/Services including Section 4.5. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement, Form OCSD-1, to ESD with their bid or proposal.

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

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and 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.

Form OCSD-1

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_1MWBEEEOPolicyStatement.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf)

Form OCSD-2

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_2StaffingPlan.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf)

Form OCSD-3

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_WorkforceUtilizationReport.xlsx](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_WorkforceUtilizationReport.xlsx)

Form OCSD-4

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_4MWBEUtilizationPlan.pdf](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 ESD's Office of Contractor & Supplier Diversity ("OCSD") at [OCSD@ESD.NY.GOV](mailto:OCSD@ESD.NY.GOV).

## **Diversity Practices**

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Accordingly, Respondents shall be required to include as part of their response to this procurement the Diversity Practices Questionnaire (See Attached Addendum).

## **CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, respondents for this contract for commodities, services or technology are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at: [http://ogs.ny.gov/Core/docs/CertifiedNYS\\_SDVOB.pdf](http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf)

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

A copy of each Respondent's SDVOB Contract Performance Use form proposing specific certified firms to be utilized or industries where SDVOB firms shall be sought is to be included as part of the response to this RFP. A copy of the form is available at: <http://esd.ny.gov/CorporateInformation/Data/RFPs/SDVOBContractPerformanceUse.pdf>

General inquiries or questions relating to aforementioned policies, MWBE and SDVOB participation and the goals specified herein may be addressed to OCSD at [OCSD@ESD.NY.GOV](mailto:OCSD@ESD.NY.GOV)

## VIII. MISCELLANEOUS CONDITIONS

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

1. amend, modify or withdraw this RFP;
2. revise any requirement of this RFP;
3. require supplemental statements or information from any responsible party;
4. accept or reject any or all responses hereto;
5. extend the deadline for submission of responses hereto;
6. negotiate potential contract terms with any respondent to this RFP;
7. discussions with any respondent to this RFP to correct and/or clarify responses which do not conform to the instructions contained herein;
8. cancel, or reissue in whole or in part, this RFP, if ESD determines in its sole discretion that it is its best interest to do so; and
9. extend the term of any agreement on terms consistent with this RFP.

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

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

## **IX. INSURANCE REQUIREMENTS**

The selected contractor will need to provide evidence of the following insurance:

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate.
- Auto Liability insurance - \$1 million per occurrence / \$1 million aggregate
- Excess Umbrella Liability insurance - \$1 million per occurrence / \$ 1 million aggregate
- Professional Liability insurance - \$1 million minimum
- Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits.
- Must show evidence of Disability insurance coverage at State statutory limits.
- 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 all of the following policies: Commercial General Liability, Auto Liability, and Excess Liability policies
- All policies above should include a waiver of subrogation in favor of the New York State Urban Development Corporation d/b/a Empire State Development.

## **X. PROCUREMENT FORMS AND REQUIREMENTS**

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

1. State Finance Law §§139-j and 139-k forms
2. Vendor Responsibility Questionnaire
3. Iran Divestment Act Statement
4. Encouraging the Use of NYS Businesses in Contract Performance Form
5. Certification under State Tax Law Section 5-a
6. Project Sunlight (for review only—no separate form requirement)
7. Office of State Comptroller Review (for review only—no separate form requirement)

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

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact persons listed below; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the 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](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 Stephen Gawlik at [stephen.gawlik@esd.ny.gov](mailto:stephen.gawlik@esd.ny.gov).

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

[http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy\\_Jan2007.pdf](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](http://www.osc.state.ny.us/vendrep) or go directly to the Vend-Rep system online at <https://portal.osc.state.ny.us>. For direct Vend-Rep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

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

## **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. 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/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSINCONTRACTPERFORMANCE.pdf>.

#### **5. 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](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](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.

#### **6. 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.

#### **7. Office of State Comptroller Review**

This contract may be subject to review and approval by the Office of the State Comptroller (“OSC”) pursuant to Public Authorities Law section 2879-a and the regulations issued thereunder. Such OSC review and approval may be required of contracts with a value in excess of one million

dollars, or modifications to contracts that result in an aggregate value in excess of one million dollars, 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 this contract is subject to OSC review and approval, then the contract shall not be valid and enforceable, nor shall ESD have any liability of any kind arising from or in connection with this contract, unless and until OSC approval has been received.

## **XI. RFP REVIEW LIST**

### **Part 1: Required Submissions**

- Request for Proposal (RFP) Response Form
- Narrative Proposal (25 pages maximum)
- Detailed Scope of Services
- Project Budget
- Resumes of Expected Team Members
- A copy of your company's Equal Employment Opportunity Policy Statement and MWBE Utilization Plan
- Diversity Practices Questionnaire Addendum
- List of References
- Procurement Lobbying Disclosure Pursuant to Sections 139-J and 139-K of State Finance Law
- Non-Collusive Bidding Certification
- Contractor Certification to Covered Agency (Form ST-220)
- New York State Vendor Responsibility Questionnaire
- Certification of No Conflict of Interest
- Statement on company letterhead in compliance with Iran Divestment Act.
- Encouraging Use of New York State Businesses in Contract Performance Form

### **Part 2: Appendix -Forms**

- APPENDIX A - Request for Proposal (RFP) Response Form
- APPENDIX B – Procurement Lobbying Disclosure Pursuant to Sections 139-J and 139-K of State Finance Law
- APPENDIX C - Non-Collusive Bidding Certification
- APPENDIX D – New York State Vendor Responsibility Questionnaire
- APPENDIX E – Contractor Certification to Covered Agency (Form ST-220)
- APPENDIX F – Diversity Practices Questionnaire Addendum
- APPENDIX G – Encouraging Use of New York State Businesses in Contract Performance Form