



**Empire State
Development**

REQUEST FOR PROPOSALS:

**To Assist New York State in Retaining Jobs
Through the Retention and Expansion of
Military Bases**

**ISSUED BY
EMPIRE STATE DEVELOPMENT**

MAY 2, 2016

Deadline for responses: 2:00 PM (EDT) on Tuesday, May 24, 2016
(Late proposals cannot be accepted)

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I. INTRODUCTION

New York State Urban Development Corporation d/b/a/ Empire State Development (“ESD”) has issued this Request for Proposal (“RFP”) to secure a qualified individual or firm (the “Consultant”) to provide assistance in **retaining jobs** through the **retention and expansion of existing military bases** in New York State (“State”).

II. BACKGROUND

Empire State Development is New York’s chief economic development agency. The mission of Empire State Development is to promote a vigorous and growing economy, encourage the creation of new job and economic opportunities, increase revenues to the State and its municipalities, and achieve stable and diversified local economies. Through the use of loans, grants, tax credits and other forms of financial assistance, Empire State Development strives to enhance private business investment and growth to spur job creation and support prosperous communities across New York State.

According to the most recent data released by the Bureau of Economic Analysis, New York State military bases account for approximately **58,000 full-time and part-time jobs**, providing **\$2.2 billion of wages and salaries** to employees. New York State’s primary military installations include:

- Niagara Falls Reserve Station
- Fort Drum, Watertown
- Air Force Research Laboratory, Rome
- Eastern Area Defense Sector, Rome
- Defense Finance Accounting Service, Rome
- Stratton Air National Guard Base, Scotia
- Hancock Field, Air National Guard Base, Syracuse
- Watervliet Arsenal, Albany
- West Point
- Fort Hamilton, Brooklyn
- Stewart Air National Guard Base, Newburgh
- Gabreski Air National Guard Base, Westhampton

The economic benefits created by New York State military installations continue to be threatened by the Department of Defense’s ongoing budgetary constraints, force structure adjustments, and future rounds of Base Realignment and Closure (BRAC).

ESD is seeking the services of a Consultant with **military base economic development experience** to **identify growth opportunities and retention strategies** that keep New York State military installations as economic contributors and job generators for the State.

III. SCOPE OF SERVICES

The responsibilities of the Consultant shall include, but not be limited to the following:

A. Support Installation Assessments.

1. Inform iterative assessments of all New York bases and the economic and demographic analyses of areas surrounding each base in relation to the State's retention and growth strategy.
2. Provide recommended updates to the State's strategic plan to retain installations and attract new missions.
3. Provide analyses, reports and other information on competing installations in other states.

B. Advise on the State's Retention and Development Program.

1. Inform the State's retention and development plan for each major military installation, including strategy to increase visibility of and support for the bases.
2. Explore new mission opportunities for the bases including compatible missions from federal agencies other than the Department of Defense.
 - a. Opportunities identified for Air Force bases should give priority to missions related to air cargo, fueling or other operations utilizing the airfield, hangars and other support facilities.
3. Provide information and support up the chain of command in each military service as bases are evaluated.

C. Identify and Analyze other State Assets.

1. Prepare an inventory and analysis of State assets such as universities, private sector businesses and industries that could help position the State for new missions and defense-related investments.

D. Prepare and Support State Military Priorities.

Under direction of the Washington Office of the Governor ("Washington Office") and the State's top military official, The Adjutant General of the New York National Guard ("Adjutant General of NY National Guard"):

1. Provide support for tours of military bases by members of Congress and relevant federal officials.
2. Assist Washington Office in maintaining a military base priorities list.
 - a. Provide support for this list so that State bases receive available funding.
 - b. Assist the State in preparing requests to the NY congressional delegation for defense authorization bill and report language and defense appropriations program funding to support base retention / growth priorities.
3. Help the State pursue Homeland Security and other defense related funding opportunities.

4. Provide military expertise to State government officials on issues affecting State bases and on defense issues that may impact other State agencies.
5. Support event participation and Washington visits by senior officials from the State and base community leaders as identified by the State. Set up appointments with key military agency personnel and House/Senate members and staff who are decision-makers for State military bases.
6. Monitor and seek to influence the work of any BRAC or BRAC-like efforts for the benefit of New York State.

IV. CONTENT OF PROPOSALS

Interested firms are required to submit Proposals that contain the following information. Please letter and number your responses exactly as the questions are presented herein:

A. Background, Experience and Personnel

- 1) A history of the firm's consulting experience for ESD and/or similar State public entities.
- 2) A proposed technical approach outlining methodology and tasks to be performed, as outlined in the Scope of Services.
- 3) A description of the consulting team and relevant experience, including, but not limited to:
 - a) Familiarity with requested tasks, military base retention and expansion, and work with New York State and/or Empire State Development;
 - b) Summaries of comparable projects, including, but not limited to: mission conversions to create or retain jobs; and a numeric summary by cycle or year of how installations represented by the consulting team fared under Air Force or Army Force Structure Adjustments and previous BRAC rounds. Examples must include the entity name, the name of a contact person who is able to provide a reference, a description of the type of engagement, the scope of the engagement, and the amount and basis for the firm's fee calculation (for example, contract rate or hourly rate);
 - c) An outline of any work done for the State and/or ESD in the past five years; and
 - d) Resumes of the partners and associates who would be assigned and regularly work on this engagement.
- 4) Staffing program and schedule. Indicate the percentage of time each of the foregoing individuals spends on public engagements. Identify the partner in charge and, for this partner, provide three client references relating to engagements similar to the type described in this RFP including, but not limited to letters of recommendation from recognized Military Affairs Councils. Also include the percentage of time this

partner will dedicate to this engagement.

- 5) List the firm's and subconsultant's State lobbying or Federal lobbying registration if applicable.
- 6) The firm's financial statements for no less than the last three fiscal years.
- 7) The number of full time employees in New York State in calendar years 2014, 2015 and 2016.
- 8) Identify any subcontractor(s) that may be part of the team and the type of work that will be performed by the subcontractor(s). In addition, specify if any of the subcontractor(s) are certified Women-Owned Businesses and/or Minority-Owned Businesses and/or Service-Disabled Veteran-Owned Businesses.
- 9) Any other information, which you believe, would make your representation of your firm superior to that of other firms.

B. Fees, Costs and Schedule

1. The total proposed annual fee.
2. The normal hourly rate of each partner and associate whose resume is provided and the hourly rate you propose to charge (as utilized to calculate the fee above).
3. A schedule of all disbursements, which you anticipate will result in any additional charge and the rate of each.
4. Any other anticipated fees or charges.
5. An anticipated schedule of tasks. The term of the contract will be for one (1) year with, at ESD's discretion, an option to renew the contract annually for an additional one (1), two (2) or three (3) years. Provide annual fee for optional contract extension.

C. Conflicts of Interest

Please submit a statement describing whether the representation of ESD and the State of New York would create any potential conflict of interest, or appearance of impropriety, relating to other clients/customers of the respondent, including, but not limited to, providing services for clients/customers seeking similar services or possessing overlapping interests with New York State as it relates to military bases and related concerns, or former officers and employees of ESD and the State of New York. Indicate what procedures will be followed to detect, notify ESD of, and resolve any conflicts.

Identify any past, pending or threatened litigation or administrative or state 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 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.

D. Supporting Documentation

All requested documentation noted in the **Procurement Forms and Requirements** section below must be submitted with the Proposal.

V. SUBMISSION OF PROPOSALS

Proposals must be received by ESD no later than 2:00 P.M. U.S. Eastern Standard Time, on Tuesday, May 24, 2016.

Submit ten (10) print copies and one (1) electronic copy (in the form of a flash drive) of the proposal to the following address:

Empire State Development
633 Third Avenue, 34th Floor
New York, NY 10017
Attn: Anna Franzini, ESD Procurement Unit
Re: ESD Military Base Consultant RFP

It is the responsibility of each individual or firm to ensure timely submission of its proposal. Proposals received after the scheduled date and time cannot be accepted.

Proposals should be submitted in at least 12 point type with standard margins printed on 8½ X 11 inch pages in 3-ring binders. While there is no specific page limit, brevity, wherever practical, is strongly encouraged and will be considered. Company financial statements may be submitted in a separate sealed envelope if necessary.

A Respondent accepts all provisions of this RFP by submitting a Proposal and is responsible for the accuracy of its submission.

VI. QUESTIONS AND ADDENDA

If you intend to submit a Proposal, please provide notice of your intention to Mr. Kevin Hansen, Director of Real Estate Development, via email (ESDRFPProposals@esd.ny.gov) so that you may receive all future notices for this solicitation.

All questions regarding this RFP must be submitted in writing to Mr. Hansen via e-mail (ESDRFPProposals@esd.ny.gov). Please do not contact ESD by telephone.

Questions must be received no later than 11:59 P.M. U.S. Eastern Daylight Time, on Wednesday, May 11, 2016. All questions must cite the particular RFP section, if applicable. Responses to any substantive questions will be provided in writing to all known recipients of the RFP and will be posted on the ESD web site: <http://esd.ny.gov/CorporateInformation/RFPs.html>.

If a respondent discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, notification should be sent immediately to Mr. Hansen via e-mail (ESDRFPProposals@esd.ny.gov) requesting written clarification or modification to the RFP. Should ESD find it necessary, addenda or modification to the RFP will be provided in writing to all known recipients of the RFP and will be posted on the ESD web site: <http://esd.ny.gov/CorporateInformation/RFPs.html>.

No contact related to this solicitation with ESD Board members, staff or consultants, other than as specified in this RFP, will be allowed during the procurement period of this RFP. Any such contact by a Respondent will be grounds for disqualification.

VII. SCHEDULE OF PERTINENT DATES

Release of RFP	Monday, May 2, 2016
Deadline for Submission of Questions	Wednesday, May 11, 2016 by 11:59 PM EDT
Anticipated Date on which ESD will Respond to Questions	Monday, May 16, 2016
Submission of Proposals (date and time)	Tuesday, May 24, 2016 by 2:00 PM EDT
Interviews (if necessary)	To Be Scheduled As Necessary
Approximate Anticipated Contract Start Date	June 16, 2016

VIII. CRITERIA FOR SELECTION

Proposals may be reviewed by ESD and other State officials, including but not limited to the Washington Office of the Governor. The award of the solicitation may be subject to, as required under applicable law and regulation, review and/or approval of the ESD Directors, the Comptroller of the State of New York, and/or the New York State Attorney General. When evaluating proposals, the following criteria will be considered in the associated weighted percentages:

- A. Relevant experience with military base programming, retention and redevelopment, including complexity and size of comparable engagements by the respondent as a consultant firm for public entities. (45%)
- B. Qualifications of proposed partners and associates and experience working on relevant and similar projects. (25%)
- C. Technical approach and methodology for required Scope of Services. (15%)
- D. Anticipated cost of services and willingness to work with ESD to minimize costs.

(15%)

ESD also reserves the right to conduct interviews with or pose questions in writing to individual Respondents in order to clarify the content of their proposals and to ensure a full and complete understanding of each proposal. ESD shall undertake to pursue uniformity in the questions it asks to Respondents to the extent practicable, but ESD may ask different or additional questions to different Respondents in the context of any individual interview or in writing. ESD reserves the option to hold oral interviews as part of the selection process, in which case ESD shall convene a committee of staff who shall be permissible contacts for the purpose of such interviews, and Respondents who are invited will receive additional instructions upon their invitation.

ESD anticipates that a single Respondent will be conditionally designated based upon ESD's determination of the best value for ESD and New York State.

IX. TERMS AND CONDITIONS

The issuance of this RFP and the submission of a Proposal by any firm or the acceptance of such Proposal by ESD does not obligate ESD in any manner whatsoever. Legal obligations will only arise upon execution of a formal contract by ESD and the firm(s) selected by ESD.

ESD reserves the following rights:

- to amend, modify, or withdraw this RFP;
- to revise any requirements of this RFP;
- to accept or reject any or all Proposals;
- to extend the deadline for submission of Proposals;
- to waive or modify minor irregularities in Proposals received;
- to eliminate qualification requirements unmet by all Respondents;
- to disqualify proposals that fail to meet the qualification requirements;
- to require clarification, supplemental statements or information from any Respondent, for the purposes of assuring a full understanding of responsiveness to the requirements of the RFP;
- to negotiate with any or all Respondents, within the proposal requirements, to best serve the interests of ESD;
- to amend the scope after release of this RFP, with due notice given to all those solicited to modify their proposals to reflect the changed scope;
- to 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;
- to award contract(s) for any or all parts of a proposal;
- to elect to award contract(s) to one or more responsive and responsible Respondents, provided that the basis for the election among multiple contracts at the time of award shall be the most practical and economical alternative and shall be in the best interest of ESD; and

- to 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 respondent or any other party for its expenses incurred in the preparation of responses hereto or otherwise. Responses hereto will be prepared at the sole cost and expense of the responding party.

By submitting a proposal, an individual or firm agrees that it will not make any claim for or have any right to damages because of any lack of information or misinterpretation of the information provided in this RFP.

ESD will not reimburse for any expenses incurred in connection with this RFP including the costs of preparing the response, providing any additional information and/or travel expenses relating to an interview. All material submitted in response to this RFP will become the sole property of ESD. ESD expressly reserves the right to utilize any and all ideas submitted in the proposals received unless covered by legal patent or proprietary rights.

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

X. PROCUREMENT FORMS AND REQUIREMENTS

Relevant forms, where required to be submitted by a Respondent, must be executed and included in the submission in the same order as listed below:

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

govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this Solicitation; (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 Solicitation. Compliance with the Procurement Requirements requires that all communications regarding this Solicitation, 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 Solicitation.

Respondents must submit the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer's Affirmation of Understanding and Agreement pursuant to State Finance Law as part of their submittal. Copies of these forms are available at: http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf.

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

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at: http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.pdf. All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

2. Vendor Responsibility Questionnaire

All Respondents to this Solicitation 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 Solicitation, 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 Solicitation.

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

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

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

3. Iran Divestment Act

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

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

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

4. Non-Discrimination and Contractor & Supplier Diversity Requirements

I. 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 Empire State Development (“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.

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 – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor, undertake or continue programs to ensure that minority group members

and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The 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, Form OCSD-3, and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by ESD on a quarterly basis during the term of the contract.

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

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

Form OCSD-1

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf

Form OCSD-2

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

Form OCSD-3

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

Contractor Requirements and Procedures for Business Participation Opportunities for Service-Disabled Veteran-Owned Businesses

NEW YORK STATE LAW

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.

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 Solicitation. 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

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

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

6. Certification under State Tax Law Section 5-a

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits ESD from approving any such

contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Respondents to this solicitation must include in their Proposals a properly completed Form ST-220-CA (http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf), or an affidavit (http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf) that the Respondent is not required to be registered with the State Department of Taxation and Finance. Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

7. Schedule A

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with "Schedule A," which can be found at:

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

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

8. Project Sunlight

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

9. Insurance Requirements

The Selected Respondent will be required to meet applicable business insurance requirements.

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

1. Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate;
2. In the event that you are using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million;
3. Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits;
4. Must show evidence of Disability insurance coverage at State statutory limits;
5. Professional Liability (Errors & Omissions) Insurance of \$1 million.
6. Empire State Development must be named as additional insured on a primary and non-contributory basis on all of the following policies: Commercial General Liability and Auto Liability. All policies above should include a waiver of subrogation in favor of Empire State Development.

10. General Conflict of Interest

If the Respondent (or if the Respondent is a joint venture, any participant) or any employee, agent or subcontractor of the Respondent (or any joint venture participant) may have a possible conflict of interest, or may give the appearance of a possible conflict of interest, including, but not limited to, providing services for clients/customers seeking similar services or possessing overlapping interests with New York State as it relates to military bases and related concerns, the Respondent shall include in its Proposal a statement indicating the nature of the conflict and submit a mitigation plan addressing said conflict.

If in the sole discretion of ESD, ESD believes that the Respondent (or any joint venture participant) performing in any capacity for ESD has a conflict (or potential conflict) of interest, ESD may reject or decline to review the Proposal. However, a Respondent who believes that it can provide a mitigation plan that would address the conflict (or potential conflict) of interest shall submit to ESD, with the Proposal, such mitigation plan for evaluation by ESD.

It is recommended that the following items/concepts be addressed in a proposed mitigation plan where a conflict or the appearance of a conflict of interest may exist, or may exist in the future:

1. A proposed organizational chart/structure/firewall designed to keep separate, as specific by project, and to allow for no overlap between team members and resources including, but not limited to: equipment, materials, staffing, laydown areas, and office facilities on said projects.
2. Specific plan(s) intended to maintain the separation and integrity, as specific by project, of the following to include, but not limited to: confidential and/or privileged information, documents, plans, drawings, estimates and other financial data.

3. Specific plan to maintain proper and independent billing procedure(s) designed to address the avoidance of double and improper billings.
4. Specific plan to educate employees, on all levels, of the importance of said mitigation plan to promote the awareness and importance of mitigation and its role in preventing fraud, waste, and abuse, and verification of such education/training and individual understanding.
5. Specific plan to internally oversee and/or audit the above-listed plans and procedures to ensure compliance.
6. Specific contingency plan, notification, and approval process for where there is a necessary, reasonable, and business related purpose for overlap in and/or sharing of staff members and/or resources.
7. Specific contingency plan in addressing a direct or suspected violation of said mitigation plan. All violations must be reported to ESD.
8. The Respondent (or if the Respondent is a joint venture, each participant) shall ensure that all employees, contractors, consultants, sub-consultants, subcontractor or other person or entities identified with respect to each such conflict of potential conflict must cooperate with ESD in auditing the mitigation plan for compliance. This cooperation must include access to all necessary documentation and interviews of employees and affiliated persons.

ESD reserves the right to disqualify the Respondent if, in its sole discretion, any interest disclosed from any source could create a conflict of interest or give the appearance of a conflict of interest. ESD's determination regarding any questions of conflict of interest will be final.

11. Organizational Conflict of Interest

The Agreement may give rise to a potential for an organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under the Agreement may, without some form of restriction on future activities result in an unfair competitive advantage to the Respondent.

1. If the Respondent is awarded the work, the Respondent will have access to confidential and/or sensitive ESD and Project information in the course of Agreement performance. Additionally, the Respondent may be provided access to proprietary information obtained from other contracted entities during Agreement performance. The Respondent agrees to protect all such information from disclosure unless so authorized, in writing, by ESD and to refrain from using such information for any purpose other than that for which it was furnished.

2. If the Respondent is awarded the work, then to the extent that the Respondent either (i) uses confidential and/or sensitive ESD or Project information or proprietary information obtained from other ESD or Project contractors to develop any form of document, report, or plan that is determined by ESD to be the basis, in whole or in part, of any subsequent solicitation issued by ESD or (ii) develops written specifications that are used in any subsequent solicitation issued by ESD, the Respondent agrees that it shall not be eligible to compete for such subsequent solicitation(s) as a prime or principal contractor or as part of any teaming arrangement unless ESD provides, in writing, a specific waiver of this restriction. The duration of any restriction imposed under this subparagraph shall not exceed the length of the initial performance period of any subsequently awarded contract for which the Respondent was ineligible to complete.

The Respondent, by submitting its proposal, agrees to the above stated conditions and terms and further agrees to perform all duties under the Agreement and, in doing so, not to enter into contractual agreements with ESD prime contractors and first-tier subcontractors in such a way as to create an organizational conflict of interest.

If ESD determines that the Respondent has violated any term of this clause entitled "Organizational Conflict of Interest", ESD may take any appropriate action available under the law or regulations to obtain redress to include, but not be limited to, requiring the Respondent to terminate any affiliation or contractual arrangement with a ESD prime contractor or first-tier subcontractor at no cost to ESD, determining the Respondent ineligible to compete for or be awarded any subsequent or "follow-on" contracts that may be based upon the Respondent's actions under the Agreement or violations of this clause, or terminating the Agreement, in whole or in part.

XII. PROPOSAL CHECKLIST

I _____, a principal of the firm _____ certify that the following information has been submitted as part of the response to this Request for Proposals.

<input type="checkbox"/>	Submitted all required information with respect to Proposal Content, including but not limited to a description of experience, staffing approach, technical approach, conflict of interest statement and cost proposal that clearly outlines all assumptions (Section IV)
<input type="checkbox"/>	Submitted ten (10) physical copies and one electronic copy of the Proposal to the listed address (Section V)
<input type="checkbox"/>	Completed and submitted State Finance Law Sections 139-j and 139-k forms (Section X.1)
<input type="checkbox"/>	Submitted Copy of VendRep receipt (Section X.2)
<input type="checkbox"/>	Completed and submitted Iran Divestment Act Statement (Section X.3)
<input type="checkbox"/>	Completed Office of Contractor and Supplier Diversity forms (Forms OCSD-1, OCSD-2, OSCD-3, and Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance form; Section X.4)
<input type="checkbox"/>	Completed and submitted Use of NYS Business Form (Section X.5)
<input type="checkbox"/>	Completed and submitted ST-220-CA Form or affidavit (Section X.6)

Signed: _____

Name:

Date: