



**REQUEST FOR PROPOSALS
TO ASSIST NEW YORK STATE IN RETAINING JOBS THROUGH THE
RETENTION AND EXPANSION OF MILITARY BASES**

**ISSUED BY
EMPIRE STATE DEVELOPMENT**

JULY 26, 2013

Deadline for responses: 12:00 PM (EST) on August 21, 2013

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

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.

New York State military bases account for more than 10,000 direct jobs and greater than \$1.9 billion annual economic impact. 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. CONTRACT TERM

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.

IV. 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.

V. CONTENT OF PROPOSALS

Interested firms are required to submit Proposals which 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 familiarity with requested tasks, military base retention and expansion, and work with New York State and/or Empire State Development. Respondents should provide summaries of comparable projects, an outline of any work done for the State and/or ESD in the past five years, and resumes of the partners and associates who would be assigned and regularly work on this engagement. 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).
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. 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 2010, 2011, and 2012.
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.
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 and annual fee for optional contract extensions.
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.

C. Conflicts of Interest

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 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 **New York State Non-Discrimination and Contractor & Supplier Diversity Compliance** and **Procurement Requirement** sections below.

VI. SUBMISSION OF PROPOSALS

Proposals must be received by ESD no later than 12:00 P.M. U.S. Eastern Standard Time, on August 21, 2013. Submit five (5) print copies of the proposal to the following address:

**Kevin Hansen
633 Third Avenue, 37th Floor
New York, NY 10017
Attention: ESD Military Base Consultant RFP**

In addition to print copies, please submit an electronic copy of the Proposal by email to khansen@esd.ny.gov. This will NOT be considered a substitute for a timely print copy submission.

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 in evaluating responses. 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.

VII. QUESTIONS AND ADDENDA

If you intend to submit a Proposal, please provide notice of your intention to Mr. Hansen via email (khansen@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 (khansen@esd.ny.gov). Please do not contact ESD by telephone. Questions must be received no later than 5:00 P.M. U.S. Eastern Standard Time, on August 7, 2013. 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 (khansen@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 Proposer will be grounds for disqualification.

VIII. SCHEDULE OF PERTINENT DATES

Release of RFP	July 26, 2013
Submission of Questions	August 7, 2013
Submission of Proposals	August 21, 2013

IX. CRITERIA FOR SELECTION

Only those individuals or firms who have supplied complete information will be considered. Proposals will be scored based on the following criteria, not necessarily in order of importance:

- 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.
- Technical approach and methodology for required Scope of Services.
- Qualifications of proposed partners and associates and experience working on similar projects.
- Demonstrated commitment of time, resources, and experienced staff to this project.
- Anticipated cost of services and willingness to work with ESD to minimize costs.
- Overall organization, completeness, and quality of proposal, including clarity of response, conciseness and demonstrated understanding of ESD.

ESD reserves the option to hold oral interviews as part of the selection process. In the event interviews are held, responding firms will be notified accordingly.

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

X. 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 waive or modify minor irregularities in Proposals received;
- to eliminate qualification requirements unmet by all Proposers;
- to disqualify proposals that fail to meet the qualification requirements;
- to require clarification, supplemental statements or information from any Proposer, for the purposes of assuring a full understanding of responsiveness to the requirements of the RFP;
- to negotiate with any or all Proposers, 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 award contract(s) for any or all parts of a proposal; and
- to elect to award contract(s) to one or more responsive and responsible Proposers, 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.

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.

XI. NEW YORK STATE NON-DISCRIMINATION AND CONTRACTOR & SUPPLIER DIVERSITY COMPLIANCE

It is the policy of the State of New York and Empire State Development (ESD) to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that Minority and Women-owned Business Enterprises (MWBES), Minority Group Members and Women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds.

MWBE firms currently certified by New York State's Department of Economic Development are encouraged to respond to this RFP.

ESD's Non-Discrimination and Contractor & Supplier Diversity policy will apply to this initiative. The Respondent shall be required to solicit and utilize MWBEs for any contractual opportunities generated in connection with the Project and shall be required to use Good Faith Efforts (pursuant to 5 NYCRR §142.8, see attached exhibit OCSD-4) to achieve an **overall MWBE Participation Goal of 23%** related to the total value of ESD's funding. The above goal shall consist of Minority-owned Business Enterprise (MBE) and Women-owned Business Enterprise (WBE) utilization of 15% and 8%, respectively.

A copy of Respondent's Equal Employment Opportunity Policy Statement (Form OCSD-1), Staffing Plan (Form OCSD-2) of the anticipated workforce to be utilized, and MWBE Utilization Goal Plan (Form OCSD-3) proposing specific certified firms to be utilized or industries where MWBE firms shall be sought are to be included as part of the response to this RFP.

Copies of these forms are available at:

Form OCSD-1

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEOPolicyStatement.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_3MWBEUtilizationPlan.pdf

Form OCSD-4

http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4GoodFaithEfforts.pdf

In the event that the above links are unavailable or inactive, the forms may also be requested from the Office of Contractor & Supplier Diversity at OCSD@ESD.NY.GOV.

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

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

Only the Respondent to the RFP shall complete these forms. In the Utilization Goal Plan (Form OCSD-3) the Respondent must list all of the sub-contractors and sub-consultants it proposes to use in achieving the MWBE goal requirement or propose the types of sub-contractors that the Respondent intends to solicit to achieve the aforementioned MWBE goal requirement. The Respondent may use the aforementioned directory of Certified MWBEs to identify firms that it proposes to utilize. OCSD is also available to assist you in identifying New York State certified MWBEs that can provide goods and services in connection with this contract. If you require listings of certified MWBE firms or have other questions relating to the requirements herein, please contact OCSD with your inquiries and comments. Be sure to include all relevant contact information for your company and details pertaining to this RFP.

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

XII. PROCUREMENT REQUIREMENTS

A. Insurance

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

- Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate.
- Commercial Automobile insurance with a limit of not less than \$1 million.
- Professional Liability insurance of \$1 million to \$2 million.
- Evidence of Workers Compensation/Employer's Liability insurance at State statutory limits.
- Disability insurance coverage at State statutory limits.
- NYS Urban Development Corporation (UDC) d/b/a Empire State Development (ESD) to be named as additional insured on a primary and non-contributory basis on the following policies: Commercial General Liability & Auto Liability. In addition, all policies listed above should include a waiver of subrogation in favor of NYS UDC d/b/a ESD.

B. Vendor Responsibility Questionnaire

ESD encourages vendors to register in New York State's Vendor Responsibility System ("VendRep System"). The VendRep 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. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep/forms_vendor.htm and execute accordingly pertaining to the company's trade industry.

C. Integrity Certification

If Proposer is designated and selected for performance of the subject services, the Proposer (or if the Proposer is a joint venture, each participant in the joint venture) will be asked to sign a certification (the "Certification Statement") certifying the Proposer's (or if the Proposer is a joint venture, each participant's) compliance with the integrity provisions set forth in the Agreement. By submitting the Proposal, the Proposer (or if the Proposer is a joint venture, each participant) shall be deemed to have made the certifications contained therein unless said Proposer submits a statement with its Proposal explaining the inability to make such certification(s). Such statement shall be submitted in a separate envelope along with your proposal, clearly marked "CERTIFICATION STATEMENT".

D. General Conflict of Interest

If the Proposer (or if the Proposer is a joint venture, any participant) or any employee, agent or subcontractor of the Proposer (or any joint venture participant) may have a possible conflict of interest, or may give the appearance of a possible conflict of interest, the Proposer 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 Proposer (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 Proposer 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 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 Proposer (or if the Proposer 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 Proposer 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.

E. 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 Proposer.

1. If the Proposer is awarded the work, the Proposer will have access to confidential and/or sensitive ESD and Project information in the course of Agreement performance. Additionally, the Proposer may be provided access to proprietary information obtained from other contracted entities during Agreement performance. The Proposer 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 Proposer is awarded the work, then to the extent that the Proposer 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 Proposer 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 Proposer was ineligible to complete.

The Proposer, 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 Proposer 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 Proposer to terminate any affiliation or contractual arrangement with a ESD prime contractor or first-tier subcontractor at no cost to ESD, determining the Proposer ineligible to compete for or be awarded any subsequent or "follow-on" contracts that may be based upon the Proposer's actions under the Agreement or violations of this clause, or terminating the Agreement, in whole or in part.

F. **Non-Collusive Bidding Certification**

Proposer (and if the Proposer is a joint venture, each participant) shall submit a properly subscribed and affirmed Non-Collusive Bidding Certification, and Proposer's failure to include it may result in ESD rejection of the Proposal; provided, however, that if the Proposer (or any joint venture participant) cannot make such certification, it shall so state and shall submit with the Proposal a signed statement which sets forth in detail the reasons therefore. In the event that such statement is submitted in lieu of the Non-Collusive Bidding Certification, the bid shall not be considered unless ESD determines that disclosure was not made for the purpose of restricting competition.

G. **New York State Finance Law Sections 139-j and 139-k**

State Finance Law Sections 139-j and 139-k (collectively, the "Section 139 Requirements") apply to this solicitation. These requirements (1) govern permissible communications between potential Proposers and ESD or other involved governmental entities with respect to this solicitation during the procurement process; and (2) establish sanctions for knowing and willful violations of the provisions of the requirements, including disqualification from eligibility for an award of any contract pursuant to this solicitation.

In order to comply with the Section 139 Requirements: (i) all communications regarding this solicitation, from the issuance of this solicitation through award and final approvals of any resulting contract (the "Restricted Period"), must be conducted only with the ESD contact person listed in this solicitation; (ii) the completion by Proposers of the Offerer Disclosure of Prior Non-Responsibility Determinations and the Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law, copies of which are available at www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf; and (iii) periodic updating of such forms during the term of any contract resulting from this solicitation. Proposers must submit both of these forms, properly completed, as part of their Proposals.

The Section 139 Requirements also require ESD and ESD employees to obtain and report certain information when contacted by a prospective Proposer during the Restricted Period, make a determination of the responsibility of the Proposer, and make all such information publicly available in accordance with applicable law. If a prospective Proposer is found to have knowingly and willfully violated the Section 139 Requirements, that prospective Proposer and its subsidiaries, and related and successor entities will be determined to be a non-responsible Proposer 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.

A copy of the Policy Regarding Permissible Contacts under State Finance Law Section 139-j and 139-k, which is applicable to all ESD subsidiaries, including ESD, can be found at www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2_007.pdf. Neither this summary nor the referenced Policy is a complete presentation of the provisions of the Section 139 Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at <http://www.ogs.state.ny.us>. All potential Proposers are solely responsible for full compliance with the Section 139 Requirements.

H. **New York 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 or subcontractors make sales within New York State of tangible personal property or taxable services having a value over \$300,000 during the immediately preceding consecutive four sales tax quarters and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, all Proposers must include in their Proposals a properly completed Form ST-220-CA, (a copy of the form is available at www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf) *or* a satisfactory affidavit that the entity is not required to register (a copy of the affidavit form is available at www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf). Proposers must submit a properly completed ST-220-CA *or* an Affidavit of Non-Applicability as part of their Proposals.

I. **Iran Divestment Act**

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

"By submission of this bid, each Proposer and each person signing on behalf of any Proposer 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 Proposer 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. No bid that fails to certify compliance with this requirement may be accepted as responsive.

J. **Project Sunlight**

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 services 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, Proposers and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

K. **ESD Contract Terms**

The selected Consultant must execute an ESD standard form contract which will include, without limitation, the terms set forth in Schedule A, a copy of which is available on the ESD website: http://www.esd.ny.gov/CorporateInformation/Data/RFPs/ScheduleA_May2012.pdf