



STATE OF NEW YORK

M/WBE Disparity Study

Request For Information

Empire State Development (“ESD”) is coordinating responses to this Request for Information (“RFI”). This RFI is posted on the ESD website:

<http://www.esd.ny.gov>

Issued: Thursday, 1 August 2013

Submission Deadline: Thursday, 22 August 2013, Noon (“12 PM”)

Make all inquiries by email to:

RFInfo@esd.ny.gov

1.0 INTRODUCTION

The New York State Department of Economic Development, D/B/A Empire State Development (“ESD”), on behalf of the State of New York (“NYS” or “State”), is issuing this Request for Information (“RFI”) to identify options available to the State in connection with its anticipated procurement of consulting services to conduct a comprehensive disparity study regarding both the State’s use of minority and women-owned business enterprises (“M/WBEs”) as State contractors and subcontractors and the employment of women and minorities by State contractors and vendors.

This RFI is not a solicitation or Request for Proposal (“RFP”). No contract can or will be awarded based upon submissions. The RFI is exploratory, issued solely for planning and gathering information.

1.1 PURPOSE

The purpose of this RFI is to solicit information about potential options, approaches and strategies for conducting a comprehensive disparity study of the following two distinct areas of State contracting:

(1) The level of use of qualified minority and women-owned business enterprises as contractors and subcontractors by the State for (a) construction, (b) construction-related services, (c) non-construction related services and (d) commodities (“Part 1 of the Study”); and

(2) The level of employment of qualified minorities and women by State contractors, subcontractors, and vendors (“Part 2 of the Study”) who receive State construction, construction-related services, non-construction related services and commodities contracts.

The RFI includes questions regarding each respondent’s current capabilities, demographics and past experiences working with other states and large municipalities and how those experiences may inform or impact work with New York State as it relates to operating models, leading practices, pricing structures and process improvements.

The anticipated study period is from April 1, 2006, and may include up to five years, using data from approximately ninety-five (95) reporting agencies and public authorities.

1.2 BACKGROUND

In 1988, New York State adopted its first M/WBE Program to address significant underrepresentation of M/WBEs doing business with the State. The Program, as set forth in New York State Executive Law Article 15-A, promotes the participation of minority group members and women and M/WBEs in State contracting. In 2006, a disparity study was commissioned by ESD, pursuant to Executive Law section 312-a, to evaluate whether M/WBEs had sufficient opportunities to compete for State prime contracts and subcontracts.

Published April 29, 2010, [*The State of Minority and Women-Owned Business Enterprise: Evidence from New York*](#), commonly referred to as the “2010 Disparity Study”, found large, adverse, and statistically significant disparities between minority and women participation in the State's areas of need. The 2010 Disparity Study further concluded these disparities between M/WBEs and non-M/WBEs could not be explained solely, or even mostly, by factors untainted by discrimination. These differences, therefore, gave rise to a strong inference of the presence of discrimination.

The 2010 Business Diversification Act was passed to redress this discrimination regarding State contracts through the statewide M/WBE program and the 2010 Disparity Study was adopted as the legal basis for the Act.

1.3 REFERENCE MATERIALS

Respondents may want to familiarize themselves with the following sources:

- (1) [New York State Executive Law Article 15-A](#) - Primary statute that covers the State M/WBE programs.
- (2) [New York State Finance Law](#) – Statute that covers State purchasing.
- (3) [2010 Disparity Study](#) – Last Disparity Study.

1.4 PERTINENT DATES

Milestone	Date and Time
RFI Release Date	Thursday, 1 August 2013
Deadline to Submit Questions	Wednesday, 14 August 2013 – 5 PM
RFI Response Due Date	Thursday, 22 August 2013 – Noon (“12 PM”)
RFP Release Date	Autumn 2013

1.5 QUESTIONS ON THE RFI

Submit all questions regarding this RFI by email to:

RFInfo@esd.ny.gov

Questions will be accepted until Wednesday, August 14, 5 PM. ESD will make questions and responses regarding this RFI publicly available on ESD’s webpage at:

<http://www.esd.ny.gov/CorporateInformation/RFPs.html>.

2.0 Disparity Study Consultant Services

2.1 OBJECTIVES OF THIS RFI

- Understand the level of interest and availability of potential respondents that could provide disparity study consultant services to New York State.
- Gain a more comprehensive understanding of vendor business models and industry best practices when conducting and publishing disparity studies.

- Identify issues, roadblocks and barriers to the successful study of State contracting as it relates to M/WBE and Workforce Diversification programs and the publication of such findings.

3.0 CONTENT AND FORMAT

3.1 SUBMISSION OF RESPONSES

In order to facilitate the review of the responses, please provide the information in the exact order as dictated in the RFI. You may enter responses within this document (Section 4.1) and Appendix A directly below each question, maintaining the original formatting of this document and Appendix A. Respondents should answer all questions. If a question cannot be answered, provide a brief explanation as to why the question cannot be answered (e.g., N/A outside the scope of available business offering). Respondents may also submit any existing material or material prepared specifically in response to the RFI, which they believe may be of interest or use to the State.

Please rename this document with the following naming convention: **NYS MWBE RFI Respondent Name.doc** (.docx format is also acceptable) and submit according to the directions below. ESD reserves the right to have follow-up communications with respondents to the RFI.

Please submit your RFI response electronically via email no later than Noon ("12 PM") EST on Thursday, 22 August 2013 to Empire State Development: RFIinfo@esd.ny.gov.

3.2 GENERAL TERMS

1. The State will not be liable for any costs of work performed in the preparation and production of any RFI response. By submitting a response to the RFI, respondent agrees not to make any claims for, or have any right to, damages because of any misunderstanding or misrepresentation of the information, or because of any misinformation or lack of information in the RFI. The responses to the RFI shall become the property of the State of New York. The State has the right to adopt, modify, or reject any or all ideas presented in any material submitted in response to the RFI.
2. Respondents are requested to answer all questions included in Appendix A. This RFI is issued as a means for collecting market research; solely for information and planning purposes. A response does not bind or obligate the responder or Empire State Development to any agreement of provision or procurement of services referenced. No contract can or will be awarded based on submissions.
3. Since this RFI is designed as a tool to collect information and will not result in a procurement contract for 2016 Disparity Study, it does not fall under the requirements of State Finance Law §§139-j and 139-k (the Procurement Lobbying Law) and there is no restricted period.
4. Freedom of Information Law and Responses
 - a) The purpose of New York State's Freedom of Information Law ("FOIL") requirement, which is contained in Public Officers Law Sections 84-90, is to promote the public's right to know the process of governmental decision-making and to grant maximum public access to governmental records.

- b) Thus, a member of the public may submit a FOIL request for disclosure of the contents of the responses submitted to the State in response to this RFI. The responses of respondents are subject to disclosure under FOIL. However, pursuant to Section 87(2)(d) of FOIL, a State agency may deny access to those portions of responses which "are trade secrets or submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Mark clearly in your RFI response, any information you claim as proprietary, copyrighted or rights reserved which may be protected from disclosure under FOIL.
- c) If there is information in your response, which you claim meets the definition set forth in Section 87(2)(d), you must so inform us in a letter, by email, accompanying your response.

5. The State reserves the right to:

- a) Postpone or cancel this RFI upon notification to all RFI respondents.
- b) Amend the specifications after release with appropriate notice to all RFI respondents.
- c) Request RFI respondents to present supplemental information clarifying their responses, either in writing or in formal presentation.

4.0 ADMINISTRATIVE INFORMATION

4.1 COMPANY DEMOGRAPHICS

Question	Company Response
Company Name	
Division/Location	
Headquarter Location	
Total Number of Employees	
Contact Name	
Title	
Email Address	
Phone Number	
Do you provide disparity study consultant services?	(Please respond Yes or No)
Do you partner with any other business, person or entity to perform a portion of the necessary consultant work associated with conducting and publication of studies?	(Please respond Yes or No)
If you do partner, please list past, present and prospective partners/relationships, and outline the scope of services those groups or individuals have previously or could potentially provide in concert with your organization in order to conduct a disparity study for New York.	

Are you a NYS certified minority-owned business enterprise?	(Please respond Yes or No)
Are you a certified woman-owned business enterprise in another state?	(Please respond Yes or No)

APPENDIX A

I. PAST EXPERIENCE

1. Provide your company’s current assessment of the use and efficacy of disparity studies to serve as the foundation of legally sound M/WBE and Workforce Diversity programs.
2. Provide an overview of your company’s business model as it relates to the provision of disparity study consultant services. DO NOT include sales or marketing-related materials unless it includes pertinent information for the State.
3. Has your company conducted and/or published a disparity study for a state, federal government agency, municipality or county? If yes, please identify each governmental entity or entities and briefly describe (a) the amount of procurement or contracting activity conducted by said entity or entities and (b) the extent to which M/WBE and/or Workforce Diversity (i.e. the employment of minorities and women) requirements applied to said entity or entities’ purchasing activity.
4. Provide your assessment of appropriate disparity study methodologies. Are there certain advantages or disadvantages associated with such methodologies? Would use of any particular methodology have any impact on cost, timeliness of publication or study reliability?
5. Describe what challenges your company has encountered in conducting and/or publishing disparity studies for governmental clients.
6. What is the typical project timeframe required to conduct and publish a disparity study? Be specific as to the various stages.

II. ADDITION OF PART 2 OF THE STUDY: WORKFORCE DIVERSITY/EQUAL EMPLOYMENT OPPORTUNITY

1. The 2010 Disparity Study did not examine Workforce Diversity or equal employment opportunity in NYS contracting. However, due to legislative amendments, the next disparity study will include assessments as identified in Part 2 of the Study. How will the inclusion of Workforce Diversity into the scope of the next disparity study impact (a) cost and (b) publication of the 2016 Disparity Study?
2. Describe factors, challenges or special circumstances the State might encounter in conducting and/or publishing a disparity study that includes Part 2 of the Study. Include any technical delays or operational barriers that may arise along with potential resolutions.

III. DATA COLLECTION

1. Due to legislative amendments, the State has approximately ninety-five (95) reporting agencies and authorities that participate in the statewide M/WBE program. Identify factors which should be considered in the management of this large data set for purposes of conducting and publishing a disparity study.
2. In the 2010 Disparity Study, only thirty-nine (39) State agencies and authorities were studied as compared to approximately ninety-five (95) State agencies and authorities mentioned for the next study. Is it necessary or advisable the next disparity study encompass all covered agencies and authorities, or can a representative sample be used instead? (Please provide detailed explanation with this response.)
3. Identify any potential pitfalls and/or attendant solutions the State should consider in terms of data collection for the disparity study.

IV. MISCELLANEOUS

1. The State is interested to learn the range of costs associated with performing and publishing disparity studies. Please identify such costs relative to the extent to which such study components are required in order to achieve the objectives of a disparity study.
2. Identify any tools, options or enhancements, which might be included in the next disparity study for the benefit of (a) State certified M/WBEs, (b) M/WBE practitioners working within State agencies and authorities and (c) prime or large contractors seeking to increase opportunities to do business with certified M/WBEs. (Example: Contract goal-setting tool for M/WBE practitioners.)
3. To the extent such tools, options or enhancements could be accompanied by cost increases, identify said cost increases, accordingly.
4. Provide any additional concerns, suggestions and/or comments related to disparity study consultant services not addressed above. **Please DO NOT include sales or marketing information.**