

## EMPIRE STATE DEVELOPMENT

### REQUEST FOR QUALIFICATIONS

AUGUST 4, 2014

#### SOLICITATION FOR PREQUALIFICATION OF REAL ESTATE AND PERSONAL PROPERTY/FIXTURE APPRAISERS

##### BACKGROUND

The New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) is the chief economic development agency of the State of New York (the “State”). The mission of ESD 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. The State Legislature has provided ESD with broad statutory powers, including the powers to acquire real property by eminent domain or otherwise, dispose of state property through sale or lease, issue tax-exempt bonds, offer tax benefits to developers, and override compliance, where appropriate, with local codes and laws. In addition to the use of these extraordinary powers, ESD provides assistance to economic development projects through the use of loans, grants, tax credits and other forms of financial assistance. ESD strives to enhance private business investment and growth to spur job creation and support prosperous communities across New York State. Additional information about ESD may be found on ESD’s website at [www.esd.ny.gov](http://www.esd.ny.gov).

##### PURPOSE

The purpose of this request for qualifications (“RFQ”) is to solicit submission of qualifications from individuals and/or firms (collectively, “firms”) with demonstrable experience in providing market-value appraisals of real estate and/or personal property of all types throughout New York State. Experience can include the preparation of appraisals of all types of interests (fee, leasehold, easement, etc.) in real property that can be vacant or developed for commercial, industrial and/or multi-unit residential use, as well as personal property, including fixtures. The submissions will be considered in adopting a list of pre-qualified appraisers that are capable of providing market value appraisals of property interests that are acquired and disposed of by ESD and its subsidiaries. Once adopted, ESD and its subsidiaries may select, from time to time as the need arises, one or more firms from the pre-qualified list to provide appraisal services. It is expected that the list will remain in effect for 3 – 4 years after adoption. Inclusion of a firm on the pre-qualified list does not represent or guarantee that it will receive any contract for appraisal services during the effectiveness of the list. Submission for consideration, however, will constitute a firm’s agreement to enter into a contract on the terms and conditions set forth in Schedule A to ESD’s Standard Short Form Contract, available at [http://esd.ny.gov/CorporateInformation/Data/ScheduleA\\_ConditionsApplicabletoCorporationA](http://esd.ny.gov/CorporateInformation/Data/ScheduleA_ConditionsApplicabletoCorporationA)

[greementsForMaterialServices\\_ RevisedMay2014.pdf](#), should the firm be selected to provide services to ESD.

ESD strongly encourages State certified Minority-Owned Business Enterprises and Women-Owned Business Enterprises (as well as firms that are not yet certified, but that have applied for certification) to submit responses to this RFQ.

## **SCOPE OF SERVICES**

Submissions should include detailed information regarding relevant experience, at least three references with contact information, and a statement of rates, costs and expenses. Public sector experience is preferred but not required. If interested firms have represented ESD or its subsidiaries in the last 5 years, contact persons should be identified. Submissions should include detailed information regarding relevant experience, including the type and location of the property and property interest being appraised, the date of the appraisal and the use for which the appraisal was prepared. Please indicate whether the firm or anyone in the firm has experience in providing testimony as an expert witness in connection with any appraisal matter and, if so, the outcome of the litigation. Also provide at least three references with contact information, and a statement of rates, costs and expenses. Responses to this solicitation should also include a statement that there is no material or threatened litigation, or contractual or other business relationship, involving the firm or its principals, partners, associates or employees that would constitute a conflict of interest or appearance of impropriety in providing the services for which the firm seeks prequalification.

Firms selected to provide services will generally be required to provide evidence of the following insurance (with ESD and subsidiary named as additional insured): Commercial General Liability of \$1 million per occurrence and \$2 million in the aggregate; Commercial Automobile insurance of \$1 million; Errors and Omission insurance of \$1 million; and Evidence of Workers Compensation, Disability and Employers Liability coverage.

## **CRITERIA FOR SELECTION**

In evaluating proposals submitted pursuant to this request, ESD places high value on the following factors:

1. Relevant firm experience and the qualifications and experience of the staff proposed to be assigned to the ESD engagement. (scoring weight –50%)
2. Overall organization, completeness, and quality of the proposal, including cohesiveness, clarity of response and demonstrated understanding of ESD and the relevant programs. (scoring weight –20%)

3. Anticipated cost of services and willingness to work together with ESD, and its subsidiaries and affiliates, in order to minimize costs. (scoring weight – 20%)
4. Diversity and commitment to equal opportunity programs. (scoring weight –10%)

#### **KEY EVENTS/DATES**

Issuance of RFQ:	August 4, 2014
Deadline for RFQ Questions:	August 11, 2014
Date for ESD Responses to Questions:	August 18, 2014
Proposal Due Date:	<b>Noon, August 25, 2014</b>
Interviews, if necessary (not earlier than):	August – September 2014
Anticipated Selection:	September 2014

ESD reserves the right to modify this schedule at its discretion. Notification of changes in connection with this RFQ will be made available to all interested parties via ESD’s website at <http://esd.ny.gov/CorporateInformation/RFPs.html>.

#### **QUESTIONS, CHANGES, AND CONTACT**

ESD will post all of its responses to substantive questions only on ESD’s website (<http://esd.ny.gov/CorporateInformation/RFPs.html>). ESD intends to post such responses on or prior to the date set forth in the KEY EVENTS/DATES section of this RFQ. All questions must be submitted to ESD in writing and only by email addressed to the email address specified below for the designated contact person named below, and such questions must be so received by ESD prior to the deadline for questions set forth in the KEY EVENTS/DATES section of this RFQ. ESD will post on its website the electronic version of this RFQ and all changes, additions, or deletions thereto. Firms should frequently check ESD’s website regarding this RFQ.

**The designated contact person for this solicitation is Lauren Axelrod, Esq., Empire State Development, 633 Third Avenue, 37<sup>th</sup> Floor, New York, NY 10017-8109. For all matters regarding this RFQ, Ms. Axelrod shall be contacted only by email and only at: [laxelrod@esd.ny.gov](mailto:laxelrod@esd.ny.gov).**

OTHER THAN THE CONTACT PERSON IDENTIFIED HEREIN, PROSPECTIVE RESPONDENTS SHALL NOT APPROACH OTHER ESD EMPLOYEES ABOUT ANY MATTERS RELATED TO THIS RFQ OR ANY PROPOSALS SUBMITTED PURSUANT THERETO FROM THE TIME OF ISSUANCE OF THIS RFQ THROUGH THE FINAL AWARD AND EXECUTION OF ANY RESULTING CONTRACT (THE “RESTRICTED PERIOD”).

## SUBMISSION REQUIREMENTS

Proposal submissions must be received by ESD by 12 noon on or prior to the Proposal Due Date set forth in the KEY EVENTS/DATES section of this RFQ. The submission should be labeled "Prequalified Appraiser RFQ Response" and addressed to Lauren Axelrod, Empire State Development, 633 Third Avenue, 37<sup>th</sup> Floor, New York, NY 10017-8109. The submission should include five (5) copies of the information required by this RFQ, and one additional copy on disk (.pdf format preferred). Electronic submissions will not be accepted.

Below is the list of information and documentation required of each respondent. A proposal may be rejected if it does not include the required information and documents.

### A. Tab 1: Basic Information

1. For the practice areas described in the SCOPE OF SERVICES section of this RFQ, provide a description of the firm's relevant experience. Include a brief description of representative appraisals.
2. Indicate whether services have been provided previously to ESD or any of its subsidiaries or affiliates, and, if so, identify the client entity and describe the services.
3. The names of the principal individuals who would be responsible for ESD's matters, and a description of the relevant qualifications and experience of each individual.
4. Evidence of public sector experience. Such experience is of interest but not required.
5. If the firm is a State certified Minority-Owned Business Enterprise ("MBE") or a Woman-Owned Business Enterprise ("WBE"), provide documentation evidencing registration. Firms that are not certified but that have applied for certification should provide evidence of filing, including the filing date.
6. A description of the instances, if any, in which the firm has worked with MBE and WBE firms or contractors on previous transactions by engaging in joint ventures or other partnering or subcontracting arrangements. Responses should include the nature of the engagement, how such arrangement was structured, and a description of how the services and fees were allocated.
7. A statement of the firm's willingness to engage in future MBE and WBE partnering or mentoring arrangements with (i) a firm of the respondent firm's choosing, and if so, a list of MBE or WBE firms with which the respondent firm is prepared to partner and/or (ii) another MBE or WBE firm selected by ESD. Such statement should include an explanation of how the firm would suggest structuring such an arrangement and allocating services and fees between the participating firms.

Please provide the information in the same order in which it is requested. The responses to the foregoing items must be limited to an aggregate of 12 pages, in at least 12 point font, with standard margins printed on one-sided 8 ½ X 11 inch pages, marked “Tab 1.”

B. Tab 2: Required Forms

In a separate “Tab 2”, the following should be included in the same order as listed:

(i) The forms listed below (accessible at the ESD website, <http://esd.ny.gov/CorporateInformation/RFPs.html>, under “Required Forms for Vendors”), completed, executed, and included in the submission in the same order as listed below:

- a. Forms required under SFL §§139-j and 139-k;
- b. Offeror Disclosure of Prior Non-Responsibility Determinations; and
- c. Form entitled “Encouraging Use of New York State Businesses in Contract Performance.”

(ii) The following representation regarding the Iran Disinvestment Act must be submitted on firm letterhead and signed by the respondent firm:

*“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.”*

(iii) The Vendor Responsibility Questionnaire For-Profit Business Entity (Non-Construction) form, available at

<http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3290s.pdf>,

completed, executed, and sworn before a notary public.

## **PROCUREMENT REQUIREMENTS**

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

State Finance Law Sections 139-j and 139-k (collectively, the “State Finance Law Requirements”) apply to this RFQ. These requirements (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFQ; (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 these requirements, including disqualification from eligibility for an award of any contract pursuant to this RFQ. Compliance with the State Finance Law Requirements requires that (x) all communications regarding this RFQ, 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; (y) the completion by respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding of and Agreement pursuant to State Finance Law; and (z) periodic updating of such forms during the term of any contract resulting from this RFQ.

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

This is not a complete presentation of the provisions of the State Finance Law Requirements. A copy of State Finance Law Sections 139-j and 139-k can be found at: <http://esd.ny.gov/CorporateInformation/RFPs.html> (under “ESD Policy Regarding Permissible Contacts under SFL 139”)

All potential Respondents are solely responsible for full compliance with the State Finance Law Requirements.

## 2. Vendor Responsibility

**ESD asks vendors to register in the 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 asked 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](http://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](mailto:helpdesk@osc.state.ny.us). Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website [http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm) and execute accordingly pertaining to the company’s trade industry.

### 3. Project Sunlight

Under the Public Integrity Reform Act of 2011, “appearances” (broadly defined and including any substantive in-person or video-conference 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 RFQ, 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.

### 4. Iran Divestment Act (referred to in item B (ii) of the SUBMISSION REQUIREMENTS section of this RFQ)

As part of ESD procurement guidelines, upon submission of proposal, the prime Consultant shall comply with the Iran Divestment Act. The following language shall be submitted on company letterhead and signed by the Consultant;

*"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."*

### 5. Encouraging Use of New York State Businesses

All vendors who anticipate using sub-contractors or suppliers to fulfill procurement contracts are encouraged (but not required) to use New York State businesses. Accordingly, the prime Consultant must complete the form entitled “Encouraging Use of New York State Businesses in Contract Performance.”

## **MINORITY-OWNED BUSINESS AND WOMEN-OWNED BUSINESS PROVISIONS**

### New York State Law

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation to promote opportunities for maximum feasible participation of certified minority-owned and women-owned business enterprises, and the employment of minority group members and women in the performance of ESD 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-Owned and Women-Owned Business Enterprises* (the “Disparity Study”). The study found evidence of statistically significant disparities between (i) the level of participation of minority-owned and women-owned business enterprises in New York State contract procurement versus (ii) the number of minority-owned and women-owned business enterprises that were ready, willing and able to participate in New York State contract procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the State’s Minority-Owned and Woman-Owned Business Enterprises program. The Disparity Study recommendations resulted in the enactment and the implementation of New York State Executive Law Article 15-A, that requires, among other things, that ESD establishes goals for maximum feasible participation of New York State certified Minority-Owned Business Enterprises (“MBEs”) and Women-Owned Business Enterprises (“WBEs”) and the employment of minority groups members and women in the performance of New York State contracts.

#### Business Participation Opportunities for Minority-Owned and Women-Owned Business Enterprises

**ESD has established an overall goal of 23% for State certified MBE and WBE participation for appraisal services performed under any contract that may be awarded to firms that are pre-qualified pursuant to this RFQ: 13% for MBE participation and 10% for WBE participation.**

Firms (that are not MBEs and/or WBEs) responding to this RFQ are strongly encouraged to consider partnering, or other joint venture arrangements, with State certified MBE and WBE law firms in order to achieve such goals and to give such MBE and WBE law firms the opportunity to participate in the appraisal services performed under contracts to be awarded to pre-qualified firms by ESD. ESD also reserves the right to require firms selected as pre-qualified appraisal firms to work on specific transactions or matters with other firms and to allocate work in a manner that ensures that such MBE and WBE firms are assigned to substantive tasks and receive appropriate credit and compensation for the services they provide.

Note that, under Executive Law Article 15-A, firms that are not State certified MBEs or WBEs must document good faith efforts to provide meaningful participation by State certified MBE and WBE firms in the performance of appraisal services. Willful and/or intentional violation of this obligation may result in the imposition of liquidated damages, including, without limitation monetary payments based on the MBE and WBE goal shortfall, and/or appropriate sanctions, including, without limitation, suspension of any future contracts with ESD and its subsidiaries.

The directory of New York State Certified MBEs and WBEs can be viewed at:

<https://ny.newnycontracts.com>

Further, the ESD Contractor and Supplier Diversity unit is available to assist respondents in identifying New York State certified MBEs and WBEs that can provide services in connection with this RFQ. If you require MBE and WBE listings, please contact the Office of Contractor and

Supplier Diversity unit at [OCSD@ESD.NY.GOV](mailto:OCSD@ESD.NY.GOV). Such communication will not be considered a prohibited lobbying contact.

## **INTERVIEWS**

ESD reserves the right to determine whether interviews will be necessary. It is anticipated that, if ESD deems interviews necessary, they will be held in August and/or September 2014. The proposed individual who would be responsible for ESD's relationship with the firm, as well as other key personnel proposed to provide the services, should be present and participate in the interview. The purpose of the interview is to further document the proposer's ability to provide the required services, and to impart to the committee conducting the interview an understanding of how specific services will be furnished.

## **GENERAL PROVISIONS**

ESD reserves the right to reject any or all proposals submitted if such election is deemed to be in the best interest of ESD. ESD assumes no obligation, no responsibility and no liability for costs incurred by the responding firms prior to the issuance of a contract.

**EXEMPTION:** None