

Empire State Development



**Request for Proposals and Statement of
Qualifications to serve the Empire State Development Corporation as
Audit Services (“RFP”)**

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**REQUEST FOR PROPOSALS AND STATEMENT OF
QUALIFICATIONS FOR
AUDIT SERVICES**

I. Introduction

New York State Urban Development Corporation d/b/a/ Empire State Development, New York Job Development Authority, Harlem Community Development Corporation, New York Convention Center Development Corporation and New York Empowerment Zone Corporation (collectively the Companies), hereby request a proposal from your firm for separately audited consolidated/combined financial statements for the above corporations and subsidiaries as well as a consolidated Federal Single Audit for the fiscal years ending March 31, 2012, 2013, 2014 and 2015.

In order for these Companies to adhere to Public Authorities Law established by the Office of the State Comptroller as well as to meet certain requirements in Bond Resolutions, the audited financial statements must be completed no later than June 10 of each year.

In addition, management consulting and other professional services may be required by the Companies throughout the contract year.

II. History and Introduction to the Companies

New York State Urban Development Corporation

New York State Urban Development Corporation (UDC), which together with its subsidiaries does business as Empire State Development, is a corporate governmental agency of the State of New York (the State), constituting a political subdivision and a public benefit corporation. Accordingly, for financial reporting purposes, UDC's consolidated financial statements are combined as a component unit enterprise fund in the State's annual financial report. Created by legislation in 1968, UDC has broad powers which can be utilized for civic, industrial, commercial or residential development purposes. UDC is engaged in three principal activities:

1) Economic Development

UDC's efforts in economic development are directed at activities which aid in carrying out its mission. UDC's mission is to promote business investment and growth that leads to job creation and prosperous communities across the State. To assist the UDC in carrying out its mission, the State Legislature has provided it with various statutory powers, including the power to issue bonds, offer tax benefits to developers, condemn real property and waive compliance, where appropriate, with certain local codes and laws.

The economic development activities of UDC are administered to businesses through programs such as the Empire State Development Fund, the Upstate

Regional Blueprint Fund and the Downstate Revitalization Fund. In addition to assisting businesses, UDC continues to support major redevelopment efforts throughout the State which it carries out through various subsidiaries such as the Convention Center Development Corporation, Queens West Development Corporation, Moynihan Station Development Corporation, USA Niagara Development Corporation, Harriman Research and Technology Development Corporation as well as the Lower Manhattan Development Corporation, which is responsible for efforts related to the rebuilding and recovery of Lower Manhattan in the aftermath of the World Trade Center attacks.

2) State Special Projects

UDC issues revenue bonds, the proceeds of which are used primarily for construction and renovation of State correctional facilities, to refinance State office facilities or construct technology facilities for universities located in New York, to finance youth facilities, to finance the acquisition of certain lands, to construct/improve various civic and community facilities and for economic development and preservation of natural resources located throughout the State. Under related agreements, UDC receives periodic State appropriations in amounts sufficient to pay the debt service on the bonds.

3) Housing Projects

Residential developments for low, moderate and middle income persons and families, nonresidential, civic, commercial and industrial properties and development of new communities were financed by corporate purpose bonds. Since the mid 1970's, UDC's activity in this area has been limited to the monitoring and loan servicing of existing projects.

New York Job Development Authority

New York Job Development Authority (the Authority), doing business as Empire State Development, is a public benefit corporation organized and existing under the laws of the State of New York (the State). The Authority is a component unit of the State and, as such, its financial statements are included in the State's general purpose financial statements. The Authority's mission is to spur job growth and capital investment in the State by using authority granted to it and by leveraging State-guaranteed bonds to support low interest loans to manufacturers and other targeted industries throughout New York State.

The State guaranteed bonds and notes (the Bonds) issued by the Authority are limited by the Constitution of the State and applicable legislation to an aggregate principal amount of \$900,000,000 outstanding at any time. The guarantee of the Bonds by the

State is authorized by the New York Job Development Authority Act, as amended by section 1813 of Title 8 Article 8 of the Public Authorities Law and Section 8 Article X of the Constitution of New York State.

Harlem Community Development Corporation

Harlem Community Development Corporation (HCDC) is reported as a consolidated subsidiary in the financial statements of New York State Urban Development Corporation (UDC) d/b/a Empire State Development. Both UDC and HCDC have been determined to be component units of the State of New York and are included in the State's financial statements as component units for financial reporting purposes. Substantially all program and management/general expenses incurred by HCDC are funded by support from and advances administered by UDC and income derived from the Weatherization Program.

The mission of HCDC is to formulate and implement a comprehensive program to revitalize the Harlem Community. This includes the development and rehabilitation of residential, commercial and industrial properties, the administration of grants under a weatherization program and a tax credit program for the development and financing of low-income housing.

New York Convention Center Development Corporation

The Senate and Assembly of the State of New York (the State) approved legislation, the 1979 Act, authorizing a first instance appropriation from the State's Capital Construction Fund (subsequently repaid from bond proceeds) to the New York State Urban Development Corporation (UDC) d/b/a Empire State Development for the acquisition and initial planning of a convention and exhibition center in the City of New York (the Facility). The 1979 Act also established the New York Convention Center Development Corporation as a subsidiary of UDC, to plan, design, develop and construct the Facility, and amended the Public Authorities Law to empower the Triborough Bridge and Tunnel Authority to finance the cost of the Facility through issuance of negotiable bonds and notes. The Facility was completed and began operations in 1986 as the Jacob K. Javits Convention Center (the Javits Center).

In 2005, the State legislature passed legislation related to the future expansion of the Javits Center. The legislation provided for issuance of bonds sufficient to fund the planned expansion and renovation and established a hotel unit fee of \$1.50 a day imposed on certain hotel room rentals in all five boroughs of the City, to provide revenue to cover debt payments on the bonds.

New York Empowerment Zone Corporation

The New York Empowerment Zone Corporation (NYEZ) was incorporated on June 6, 1996 as a subsidiary of New York State Urban Development Corporation (UDC) d/b/a Empire State Development, as authorized by Section 12 of the New York State Urban Development Corporation Act. NYEZ is reported as a subsidiary in UDC's consolidated financial statements. Both UDC and NYEZ have been determined to be component units of the State of New York (the State) and are included in the State's financial statements as component units for statewide financial reporting purposes.

NYEZ's role is to administer a memorandum of understanding among the U.S. Department of Housing and Urban Development, the State and the City of New York, which provides for grants from all three parties to approved projects within the New York Empowerment Zone. The grants are restricted for economic development and community revitalization.

III. Scope of Services

The Companies require separate examination of their consolidated/combined financial statements for the purpose of expressing an opinion as to whether the statements present fairly, in all material respects, the financial position, results of operations and cash flows for the fiscal year ending March 31 in accordance with U.S. generally accepted accounting principles. Audit examinations should be made in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

In addition, for each of the fiscal years covered by the contract, the Companies require, in general, the following Independent Auditors' reports:

- Report on consolidated financial statements;
- Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards;
- Report on Investment Compliance

The financial statements and the above listed reports must be completed and formally presented to the Companies no later than June 10 of each contract year so that the statements/reports can be presented to the Boards of Directors and filed with designated parties by June 30.

IV. Submission of RFP Responses

Responses should be submitted in at least 12 point type with standard margins printed on 8½ X 11 inch pages. While there is no specific page limit, brevity, wherever practical, is strongly encouraged and will be considered in evaluating responses. Background information, such as company financial statements, firm descriptions, resumes and organizational charts may be included in a separate book.

UDC 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. The successful firm will be notified by letter no later than November 2011 so that the firm may begin audit field work no later than January 2012.

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

UDC reserves the right (i) to amend, modify, or withdraw this RFP, (ii) to revise any requirements of this RFP, (iii) to require supplemental statements or information from any responding party, (iv) to accept or reject any or all responses thereto, (v) to extend the deadline for submission of responses thereto, (vi) to negotiate or hold discussions with any respondent and to correct deficient responses which do not completely conform to the instructions contained herein, and (vii) to cancel, in whole or part, this RFP, if UDC deems it in its best interest to do so. UDC 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.

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

All questions should be submitted via email by Monday, August 22, 2011 citing the particular proposal section and paragraph number. Questions should be sent to esdauditrfp@empire.state.ny.us.

If a respondent discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, notification should be sent immediately to the above e-mail address requesting written clarification or modification to the RFP. Should UDC find it necessary, modification to the RFP will be made by addenda. Such modification may be given by written notice and posted to UDC's website, www.esd.ny.gov.

Respondents should note that all clarifications, including those related to the terms and conditions of the contract are to be resolved prior to the submission of a proposal. Answers to

all questions of a substantive nature will be given to all recipients of this RFP by Friday, August 26, 2011 in the form of a formal addendum posted on UDC's website.

All respondents are obligated to update any changes in the proposal prior to its due date.

Eight (8) copies and one (1) electronic copy on CD of your response marked "2011 Audit Services RFP" with appropriate contact information must be received no later than 5:30 p.m. on Monday, September 12, 2011 and directed to Kathleen Mize, Deputy Chief Financial Officer and Controller.

UDC 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 UDC. UDC expressly reserves the right to utilize any and all ideas submitted in the proposals received unless covered by legal patent or proprietary rights.

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

V. Procurement and Tax Law Requirements

a. State Finance Law Sections 139-j and 139-k

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 the Empire State Development 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 Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this solicitation.

Compliance with the Procurement Requirements requires that (x) all communications regarding this solicitation, from the issuance of this solicitation through final award and approval of any resulting contract (the "Restricted Period"), be conducted only with the contact person(s) listed below; (y) the completion by respondents of the Offerer's 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 attached to this solicitation as attachments to Appendix B, and (z) periodic updating of such forms during the term of any contract resulting from this solicitation. Respondents must submit both of these forms, properly completed, as part of their proposals. The Procurement Requirements also require Empire State Development employees 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.

A copy of Empire State Development's Policy Regarding Permissible Contacts under State Finance Law Section 139-j and 139-k is attached to this solicitation as Appendix C. Neither this summary nor the referenced Policy is 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://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html> . All potential Respondents are solely responsible for full compliance with the Procurement Requirements.

ALL QUESTIONS, COMMENTS, REQUESTS FOR CLARIFICATION AND OTHER COMMUNICATIONS REGARDING THIS SOLICITATION MUST BE IN WRITING AND SUBMITTED TO esdauditrfp@empire.state.ny.us. CONTACT IN ANY OTHER MANNER REGARDING THIS SOLICITATION IS PROHIBITED BY LAW. ALL QUESTIONS AND REQUESTS FOR CLARIFICATION WILL BE RESPONDED TO IN WRITING AND AVAILABLE ON UDC'S WEBSITE.

b. 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 responses a properly completed Form ST-220, a copy of which is attached to this solicitation as an attachment to Appendix B. 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. Solicitation responses that do not include a properly completed ST-220 will be considered incomplete and non-responsive and will not be considered for contract award.

VI. Content of Proposal

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

A. Background, Experience and Personnel

1. A history of the firm's auditing experience for UDC or similar public entities.

2. A proposed audit plan outlining audit methodology and tasks to be performed in completing your audit(s) and review(s).
3. A description of the audit team, including resumes of the partners and associates who would be assigned and regularly work on UDC audits. Indicate the percentage of time each of the foregoing individuals spends on public audits. 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 the audit(s).
4. If you have not worked with UDC in the last five years, please provide a list of three audit engagements for a New York State agency or other public entity. 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).
5. The firm's financial statements for no less than the last three fiscal years.
6. The number of full time employees in New York State in calendar years 2009, 2010 and at June 30, 2011.
7. Any other information, which you believe, would make your representation of the Companies superior to that of other recognized audit firms.

B. Fees and Costs

Please briefly provide the following:

1. The total proposed annual audit fee, including an annual cap, itemized for each of the Companies as listed in this document, for each year mentioned.
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. Please specify at what rate professional services or consulting outside of the audit will be billed.
4. Any other fees or charges to UDC.

C. Conflicts of Interest

Please submit a statement describing whether the representation of UDC 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 UDC. Indicate what procedures will be followed to detect, notify UDC 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 UDC 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 audit services.

D. Supporting Documentation

All requested Affirmative Action documentation and Procurement and Tax Law documentation must be submitted.

VII. Criteria for Selection

In evaluating proposals submitted pursuant to this request, UDC places high value on the following factors, not necessarily in order of importance:

1. Experience in general and, in particular, as audit firm on behalf of UDC or public entities similar to UDC and qualifications of proposed partners and associates.
2. Demonstrated commitment of time and resources to UDC or other New York State agencies or other public firms.
3. Number, complexity and size of engagements handled by the respondents as audit firm for public entities.
4. Stability of staff and availability to and facility for working with UDC finance staff.
5. Anticipated cost of services and willingness to work with UDC to minimize costs.

6. Overall organization, completeness, and quality of proposal, including cohesiveness, conciseness, clarity of response and demonstrated understanding of UDC.

VIII. Affirmative Action

It is the policy of the State of New York, and UDC, 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 (M/WBEs), Minority Group Members and Women share in the economic opportunities generated by UDC's participation in projects or initiatives, and/or the use of UDC funds. UDC's non-discrimination and affirmative action policy will apply to this initiative. M/WBEs are encouraged to respond. A copy of each respondent's equal employment opportunity policy statement and Staffing Plan (Schedule A-1) of the anticipated workforce to be utilized, shall be included as part of the response to any RFP. Questions regarding the Affirmative Action requirements should be directed to the UDC Affirmative Action Office at 212-803-3225.

A list of accounting firms which are certified as Minority or Women Owned Business in New York State is attached to this package.