

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a Empire State Development

REQUEST FOR PROPOSAL

COMPLIANCE MONITORING SERVICES

COLUMBIA UNIVERSITY EDUCATIONAL MIXED-USED DEVELOPMENT

LAND USE IMPROVEMENT AND CIVIC PROJECT

Publication Date: Thursday, September 19, 2014
Response Date: 3:00 PM Friday, October 10, 2014

Empire State Development
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I. INTRODUCTION

A. Invitation to Submit Proposal

New York State Urban Development Corporation d/b/a Empire State Development (“**ESD**”) issues this Request for Proposal (“**RFP**”) seeking to select a consultant to provide compliance monitoring services for an initial engagement of up to three years in connection with the Columbia University Educational Mixed-Use Development Land Use Improvement and Civic Project (the “**Project**”).

ESD Directors approved a Modified General Project Plan for the Project in 2008 (the “**GPP**”). The GPP anticipates that Columbia University (“**Columbia**”) will construct new state-of-the-art educational facilities and open spaces on a 17-acre site in the Manhattanville section of West Harlem in the City of New York, and will take other actions that will benefit the surrounding community. ESD is assisting Columbia in implementing the Project.

Consistent with the GPP, Columbia signed a Declaration of Covenants and Restrictions, dated as of December 14, 2011 (the “**Restrictive Declaration**”), under which Columbia is obligated to, among other things: (a) construct and complete the Project in stages within certain construction milestones; (b) design and construct the Project in an environmentally sustainable manner; (c) relocate occupants of approximately 135 dwelling units on the Project site to alternate housing; (d) provide specific community benefits including but not limited to new educational opportunities, public access to facilities, transportation improvements, and job training; and (e) seek diversity contracting and hiring goals during construction and operation of the Project. These obligations of Columbia, detailed in Sections 2.07, 2.10, 5.03, 5.05, 5.06 and 5.07 (other than obligations under Section 5.07(e)) of the Restrictive Declaration are collectively referred to in this RFP as the “**GPP Obligations**.” A copy of the Restrictive Declaration can be located at www.esd.ny.gov under Subsidiaries & Development Projects/Columbia Manhattanville Project/Additional Resources.

The consultant retained by ESD to provide compliance monitoring services will be designated the “**GPP Monitor**” to review compliance documentation provided by Columbia, to periodically report to ESD on compliance issues, and to report to and advise ESD concerning Columbia’s compliance with the GPP Obligations. Columbia is required to fund the GPP Monitor for a minimum period of 25 years. ESD seeks to engage a consultant to serve as GPP Monitor for a period of one year, with ESD retaining the option to renew the engagement for two additional terms of one year each.

In addition to the GPP Obligations set forth above, Columbia has certain environmental obligations set forth in the Final Environmental Impact Statement (“**FEIS**”) prepared for the Project and in the Restrictive Declaration. Columbia’s compliance with such environmental obligations is outside the scope of this RFP, and is being monitored by a separate consultant (the “**FEIS Monitor**”) retained by Columbia for the benefit of the City of New York. ESD’s selected GPP Monitor may not serve as the FEIS Monitor.

B. RFP Schedule

Issue RFP	Thursday, September 19, 2014
Last Day for Respondents to Submit Questions (if any) via E-mail	Wednesday, October 1, 2014
Last Day for ESD to Post Addendum (if any) on Web Page	Friday, October 3, 2014
<u>RFP RESPONSES DUE</u>	3:00 PM Friday, October 10, 2014
Shortlist interviews beginning	promptly after ESD review of responses
Consultant selected	promptly after conclusion of interviews

II. BACKGROUND

ESD was created by the New York State Legislature in 1968 (see McKinney's Unconsolidated Laws §6251 *et seq.*). ESD is authorized to undertake projects that: (a) address the need for educational facilities; and (b) ameliorate substandard and insanitary conditions; both of which will be accomplished by the Project.

The Project site is located in the Manhattanville section of West Harlem, Manhattan, City of New York, approximately a half mile north of Columbia's existing Morningside Heights campus and one and three-quarters miles south of the Columbia University Medical Center campus. The Project site is bounded by and includes West 125th Street on the south, West 133rd Street on the north, Broadway on the east and Twelfth Avenue on the west, as well as certain areas located beneath streets owned by the City of New York within this area. The Project site also consists of an area bounded by and including Broadway, West 133rd and West 134th Streets on the south and north, and a line between West 133rd and West 134th Streets approximately 200 feet east of Broadway, along with an irregularly-shaped block enclosed by and including Broadway on the west, Old Broadway on the east, West 131st Street on the south, and West 133rd Street on the north. A map depicting the Project site appears at Exhibit A to the Restrictive Declaration. As indicated on the map, the Project site extends over all or part of seven city blocks.

Major components of the Project include: development of ~4.8 million square feet above-grade in up to 16 new buildings (and renovation of one building) for primarily academic and academic research uses and for university housing; construction of ~2 million square foot, multi-level, below-grade facility that would connect many of the new buildings and provide shared support and other facilities; and creation of new open spaces accessible to the general public which include widened sidewalks, midblock open spaces, a large square and smaller open spaces.

ESD's role in the Project is, among other things, to assist Columbia with Project site assemblage and to impose certain development parameters on the Project in addition to those imposed by zoning. ESD is providing no financing for the Project.

The Project is being constructed in stages over a period of approximately 25 years, and is estimated to create approximately 14,000 construction jobs and 6,000 new University jobs. Construction is proceeding, subject to extensions for uncontrollable circumstances and other extensions set forth in the Restrictive Declaration, in accordance with milestones set forth in Section 2.10 of the Restrictive Declaration. Construction is underway on Blocks 1996 and 1997 at the Project site.

III. SCOPE OF SERVICES

A. Overview

The GPP Monitor will generally serve as ESD's "eyes and ears" in monitoring Columbia's compliance with the GPP Obligations, which fall into two broad but diverse categories: construction obligations; and community benefit obligations. The GPP Monitor will be appointed by and for the benefit of ESD, serve as a consultant to ESD, and report to ESD. Columbia will provide: (i) periodic Implementation Plans pursuant to Section 5.03 of the Restrictive Declaration to establish that Columbia is implementing and complying with the GPP Obligations during the reporting period; and (ii) such other documentation to show Columbia's compliance with the GPP Obligations (collectively, "**Evidence of Compliance**").

A Detailed Scope of Services is set forth in Section III.B. below. The GPP Monitor's services will consist primarily of: (a) obtaining and reviewing the Evidence of Compliance; (b) evaluating the Evidence of Compliance and independently verifying, as necessary, that Columbia is adhering to the GPP Obligations, through site visits, review of books and records and other appropriate measures; and (c) periodically meeting with, and reporting in writing to, ESD thereon (see Task 1, below). The GPP Monitor will not meet with Columbia's consultants or contractors without advance notice to and approval of Columbia, and then only if accompanied by a representative of Columbia.

The GPP Monitor may be called upon periodically to review and comment on revisions of or adjustments to the Evidence of Compliance submitted by Columbia pursuant to the Restrictive Declaration (see Task 2). The GPP Monitor will also assist with miscellaneous administrative functions associated with ESD's monitoring responsibilities (Tasks 3 to 5), including maintaining information on any written claims by Columbia concerning construction delays in connection with Columbia's obligation to complete construction of the Project within the Milestone Dates set forth in Section 2.07 and 2.10 of the Restrictive Declaration (Task 3). The GPP Monitor will not have the responsibility or the authority to enforce the Restrictive Declaration or to send notices of default thereunder.

ESD recognizes that the GPP Monitor's responsibilities include broad ranges of tasks that require diverse skills. Therefore, ESD encourages and will accept proposals from consultants

who elect to partner or otherwise combine their respective skill sets and present a unified response that demonstrates an efficient and effective plan for performing the totality of the GPP Monitor's obligations. ESD also may encourage such combinations between qualified consultants who respond to this RFP.

B. Detailed Scope of Services

Task 1. Review Reports and Verify Evidence of Compliance. The GPP Monitor will review Columbia's Evidence of Compliance and independently verify, as necessary, that Columbia is adhering to the applicable GPP Obligations. The specific services required of the GPP Monitor for this task include:

- (a) Review Evidence of Compliance, and assist ESD in determining whether same is complete and sufficient with respect to each of the applicable GPP Obligations.
- (b) If ESD determines that the Evidence of Compliance is incomplete or insufficient, assist ESD in providing notice to Columbia specifying the areas of noncompliance and affording Columbia the opportunity to resubmit compliance documentation or to cure any noncompliance, and assist ESD in determining whether any resubmitted documentation is complete and sufficient with respect to the applicable GPP Obligations.
- (c) At ESD's direction, and upon reasonable written notice to Columbia and to the extent reasonably necessary in good faith to verify Columbia's compliance with the GPP Obligations: (i) access any facilities or buildings owned or controlled by Columbia on or proximate to the Project Site, accompanied by a representative of Columbia, and (ii) review reports, books and records maintained by Columbia relating to the GPP Obligations.
- (d) Meet with, and as requested report in writing to, ESD periodically in order to ascertain whether Columbia is complying with the GPP Obligations.

Task 2. Periodic Revisions to Reports. ESD or Columbia may from time to time request that the Evidence of Compliance be amended or adjusted in order to better or more accurately reflect compliance with the GPP Obligations or to reflect modifications to the GPP Obligations or methods of compliance mutually agreed to by Columbia and ESD. The GPP Monitor will be expected to consult with Columbia and ESD on such proposed amendments/adjustments and to advise ESD on their appropriateness in view of the goals of the GPP Obligations. The specific services required of the GPP Monitor for this task include:

- (a) Consult with and respond to ESD with respect to written requests from Columbia concerning revisions to the Evidence of Compliance.
- (b) Make recommendations to ESD on an as-needed basis for improvements and refinements to the Evidence of Compliance to improve clarity, respond to changed circumstances, or minimize undue administrative burdens.
- (c) Advise ESD with respect to requests made by Columbia under Section 5.08 of the Restrictive Declaration.

Task 3. Tracking Construction Milestones and Delays. The specific services required of the GPP Monitor for this task include:

- (a) Review and verify reports to be submitted by Columbia (in tabular form) to ascertain whether Columbia is on track to: (i) complete Project components within the Milestone Dates set forth in Section 2.10 of the Restrictive Declaration; and (ii) otherwise comply with Section 2.07 of the Restrictive Declaration.
- (b) Review, evaluate and advise ESD concerning any claim made by Columbia to ESD that the Project is or will be subject to a delay that may affect Columbia's achieving one or more of the Milestone Dates.
- (c) Suggest any adjustments to the foregoing reports submitted by Columbia to reflect any Columbia delay claim accepted by ESD.

Task 4. Project Administration. The specific services required of the GPP Monitor for this task include:

- (a) At least 60 days prior to the end of each one year term, submit an itemized budget for the following one year term that assumes that Columbia will reasonably cooperate with the GPP Monitor and will at all times be in compliance with the GPP Obligations.
- (b) Participate in meetings with ESD staff (at least quarterly).
- (c) Attend meetings, as directed by ESD, with Columbia, Columbia's consultants, Columbia's contractors, the FEIS Monitor, and/or the City of New York, as necessary to independently verify compliance; provided that meetings with Columbia's consultants or contractors be attended by a representative of Columbia.
- (d) Participate in at least one annual meeting with ESD and Columbia to review compliance issues and frequency of reports.

- (e) Advise and assist ESD in connection with the preparation of any correspondence, notices, and other documents related to Columbia's compliance with the GPP Obligations. Upon direction from ESD, make inquiries to the FEIS Monitor on behalf of ESD. The GPP Monitor will not have the responsibility or the authority to enforce the Restrictive Declaration or to send notices of default.

Task 5. Miscellaneous. The miscellaneous services required of the GPP Monitor include:

- (a) Assist ESD in various administrative functions in connection with the Project, including, but not limited to, scheduling meetings, document management, assistance in complying with Freedom of Information Law requests, tracking compliance timelines, and providing supplemental written memoranda regarding compliance issues at ESD's request.

C. Schedule of Services

The services identified in Section III.B. ("Detailed Scope of Services") are scheduled to commence upon ESD's execution of Contract with Consultant GPP Monitor. Columbia's Evidence of Compliance will be available at that time.

IV. SELECTION PROCESS

A. Evaluation Criteria

Proposals, submitted pursuant to this RFP, will be evaluated on the following criteria.

1. Methodology (20%).
 - (a) Approach described in the RFP response demonstrates a full comprehension of the anticipated Scope of Services and the ability to consistently provide such Services to ESD at a high performance level.
 - (b) Quality and thoroughness of the written proposal.
2. Relevant Experience (20%).
 - (a) Experience with successful, large-scale mixed-use planning and development projects, particularly in urban centers.
 - (b) Experience with similar initiatives and public agencies.
 - (c) Experience in conducting compliance monitoring or similar services
 - (d) Number, complexity, and nature of projects handled by Respondent.

- (e) Respondent shall have not less than 3 years of experience in having performed similar services for which it is engaged as a consultant.
- (f) Experience with similar or other relevant projects, services and/or activities in the vicinity of the Project or in the community surrounding the Project. Familiarity with Project and surrounding community.

3. Staff (20%).

- (a) Proposed staff ability and record of achievement.
- (b) Availability of staff of Respondent to take on services, particularly the consistent availability of senior principals. Respondent is to plan and allot the time necessary to complete all services in a timely and efficient manner.
- (c) Previous successful collaborations between Respondent team members with public agencies and community stakeholders with respect to large urban redevelopment projects.

4. Presentation and Collaboration Skills (10%).

- (a) Effective presentation and communication skills (both oral and written).
- (b) Excellent record of relations, communication and collaborations with past clients.
- (c) Ability to interact with ESD and all stakeholders in a collaborative and supportive manner consistent with the objectives of this RFP

5. Compliance (10%). Conformity with or exceeding applicable ESD policies as noted herein.

6. Fee (20%). Proposed fee structure and hourly rates.

B. Compensation

A one year contract will be issued to the selected GPP Monitor upon approval by ESD Directors. All expenses not identified in the proposal and agreed to in the Contract will be the GPP Monitor's sole responsibility and not billed to ESD. Office, transportation and food expenses will not be reimbursable expenses.

C. Selection Process

ESD reserves the right to act as the sole judge of the content of the proposals submitted, to negotiate an agreement with any or no Respondent, or to waive any informalities or

irregularities. Issuance of this RFP and receipt and evaluation of responses do not obligate ESD to undertake any action. ESD will evaluate proposals and may interview one or more respondents. Key personnel and staff assigned to the engagement must be present at any interview. ESD reserves the right to interview some, none, or all Respondents, as it deems appropriate. ESD's request for an interview shall not constitute acceptance of a proposal. ESD reserves the right to request "best and final offers" or to conduct other additional competitive proceedings with respect to this RFP. ESD staff will recommend contract award to ESD Directors at a regularly scheduled Directors' meeting.

V. GENERAL TERMS AND CONDITIONS

The acceptance of any proposal shall be subject to, and contingent upon, the execution and delivery by ESD of a contract for the services described herein ("**Contract**"), a form of which ("**Draft Contract**") is annexed hereto as **Appendix 1** and provided to Respondents hereunder. ESD shall not be bound to the terms of such Draft Contract but shall use such form as a basis of negotiating the final Contract.

A. The Contract shall contain, among other terms, certain provisions required by law or policies of the City and State, including, without limitation:

1. Provisions providing that the successful Respondent:
 - (a) is an independent contractor who owes an independent, unbiased, objective and direct duty to ESD to diligently and fairly discharge its oversight duties to ESD without fear of or favoritism to Columbia or any other involved group or entity;
 - (b) shall defend, indemnify and hold harmless the State, ESD and their respective officers, directors, employees and agents from and against any claims or damages relating to Respondent's acts and omissions;
 - (c) shall maintain financial and other records relating to the Contract and make such records available for inspection and audit;
 - (d) has no conflicts of interest with, or outstanding financial obligations owing to, the State, the City, or ESD;
 - (e) maintains and provides the following insurance: Commercial General Liability insurance of \$1 million per occurrence and \$2 million in the aggregate; Commercial Automobile Liability with a limit of \$1 million for both bodily injury and property damage; Excess/Umbrella Liability of \$5 million; Errors and Omission insurance as necessary with a limit of \$1 million and evidence of Workers Compensation/Employers' Liability insurance providing statutory NYS coverage, and with insurers licensed to

provide insurance in the State of New York. Such policies of insurance shall be in a form acceptable to, and shall include any conditions reasonably required by ESD and shall name the State, ESD, and Columbia as additional insureds.

- (f) is qualified to do business in the State of New York and is in receipt of all licenses, if any, required by applicable governmental entities; and
- (g) shall represent and warrant that neither it nor any of its directors, officers, members, or employees has any interest, nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services as set forth in the Contract. The successful Respondent must further agree that in the performance of the services no person having such a conflict of interest shall be employed by it in the performance of the Scope of Services.
- (h) shall include in all reports an express statement that they are intended with respect to ESD to be full, truthful and complete and that all statements contained thereon are made under penalties of perjury.

B. Unless a specific exception is noted, submission of a proposal in response to this RFP shall constitute an irrevocable offer extending for the next six (6) months on the part of the successful Respondent to execute a contract substantially in the form annexed hereto as Appendix 1 and in accordance with the terms of this RFP that shall include the supporting documents and all other items attached as appendices to this RFP and to cooperate in supplying any information as may be required with respect to any other government review and approval forms.

C. News Releases - Recipients of this RFP shall make no news/press release pertaining to this RFP or anything contained or referenced herein without prior written approval from ESD. Any news release pertaining to this RFP may only be made in coordination with ESD, and if required by ESD, with Columbia.

D. Prohibited Persons - No Respondent to this RFP will be selected if an individual who is an owner, shareholder, member, partner, officer or director, or otherwise a principal and/or its management team is determined, in ESD's sole discretion, to have been convicted of a felony or a crime involving moral turpitude, to be an organized crime figure, to be under indictment or criminal investigation, to be in arrears or in default of any debt, contract or obligation to or with the City or State of New York, or any other of their instrumentalities or otherwise to be a prohibited person as defined by ESD. The selected Respondent and all principals thereof, if applicable, and/or owners, shareholders, members, partners, officers or directors of Respondent's team must complete a background questionnaire and are subject to investigation by ESD. The selection of a Respondent may be revoked in the event that any derogatory information is revealed by such investigations.

E. Proposal Costs – Neither the State nor any agency thereof, including ESD, shall be liable for any cost incurred by Respondent in the preparation of its proposal to this RFP or, with respect to Respondent, for any work performed prior to the execution and delivery of the Contract. All material submitted in response to this RFP will become the sole property of ESD.

F. ESD shall be the sole judge of each Respondent's conformity with the requirements of this RFP and of the merits of the proposal. ESD reserves the right, in its sole discretion and subject to applicable law, to: amend, modify or withdraw this RFP; modify the requirements set forth herein; expand, limit or otherwise alter the scope of the requested services; waive any requirements or conditions or modify any provisions of this RFP with respect to one or more Respondents; require supplemental statements and information from any Respondent to this RFP; award a contract to as many or as few or none of the Respondents as ESD may select; award a contract to entities who have not responded to this RFP; extend the deadline for submission of proposals; negotiate or hold discussion with one or more Respondent; correct deficient proposals that do not completely conform with this RFP; and reject any or all proposals and to cancel this RFP, in whole or in part, for any reason or no reason. ESD may exercise any such rights at any time, without notice or liability to any Respondent or other parties for costs, expenses, or other obligations incurred in preparation of a proposal or otherwise.

G. This RFP and any contract or agreements resulting herein are subject to all applicable Federal, state and local laws, rules, regulations and executive orders.

H. Any waiver or modifications to this RFP must be issued in writing by ESD. Nothing stated at any time by any representative of ESD, the State, the City or of any other entity shall effect a change in, or constitute a modification to this RFP unless confirmed in writing by ESD. Respondents may request clarification by e-mail to ESD prior to the submission deadline. Any such clarification from ESD must be in writing in order to be binding on ESD.

I. ESD is not obligated to pay any costs, expenses, damages or losses incurred by any Respondent at any time unless ESD has first expressly agreed to do so in writing.

J. ESD shall not be obligated to pay any fee, cost, or expense for brokerage commissions or finder's fees with respect to the execution of the Contract. It shall be a condition of any contract that Respondent agree to pay the commission or other compensation due to any broker or finder in connection with the transaction, and to indemnify and hold harmless the State and ESD from any obligation, liability, cost or expense incurred by it or them as a result of any claim for commission or compensation brought by any broker or finder by reason of the transaction.

VI. SUBMISSION REQUIREMENTS

A. Submission Procedures

Interested firms or individuals (each a “**Respondent**”) are required to follow the guidelines and instructions contained in this RFP. In the event it becomes necessary to revise any part of this RFP, revisions will be provided by addenda posted on the ESD website (www.esd.ny.gov) under Subsidiaries & Development Projects, Columbia Manhattanville Project, Additional Resources, Columbia Manhattanville Compliance Monitoring Services 2014 RFP. It is the responsibility of all Respondents to check the ESD website for posting of clarifications, amendments, or addenda on an ongoing basis.

1. Respondents must submit one original, one electronic copy on a CD, and four copies of the proposal. The length of proposal is limited to 12 pages, excluding the required forms and cover page, but including the cover letter and resumes.
2. The cover page of each proposal should state “Columbia/Manhattanville Compliance Monitoring Services” and the entire set of proposals should be contained in a sealed package clearly labeled “Columbia/Manhattanville Compliance Monitoring Services.”
3. Sealed proposals must be delivered in hard copy by hand, regular mail or express mail. Proposals sent via facsimile or e-mail transmittal will not be accepted.
4. Proposals are due and must be received at the location designated below no later than **3:00 PM Friday, October 10, 2014**. Proposals received after the indicated date and hour and/or at a different location may not be considered at the discretion of ESD. It is the sole responsibility of each Respondent to ensure that its proposal is received before the submission deadline. Respondents shall bear the risk associated with delays in mail, courier services or hand delivery. If the proposal is to be delivered by messenger, please note that only individuals with valid photo identification will be permitted access to ESD’s offices. Messengers without valid identification will be turned away and their packages not accepted.
5. Proposals must be submitted to:

**Columbia/Manhattanville Compliance Monitoring Services
Attn. Edgar Camacho
Empire State Development
633 Third Avenue, 35th Floor
New York, NY 10017-6754**
6. ESD reserves the right, at its discretion, to postpone the date for submission and opening of proposals. Any proposal submitted prior to notice of such postponement may be withdrawn without prejudice.

7. Please note that Respondents must respond to this RFP in order to be eligible to be considered for the award of the Contract for the Compliance Monitoring Services pursuant to this RFP.

8. ALL QUESTIONS, COMMENTS, REQUESTS FOR CLARIFICATION, AND OTHER COMMUNICATIONS REGARDING THIS RFP MUST BE DIRECTED IN WRITING VIA E-MAIL TO MS. DESTINY BURNS AT DBURNS@ESD.NY.GOV. CONTACT WITH ANY OTHER PERSON REGARDING THIS SOLICITATION IS PROHIBITED BY LAW. All questions and requests for clarification will be responded to in writing and disseminated to all persons and organizations having expressed an interest in this solicitation.

9. Addenda to this RFP, including responses to any questions submitted in writing, will be posted on the ESD website as set forth above.

10. ESD staff will make the final selection of the prospective consultant. ESD reserves the right to require any Respondent to exclude or replace one or more subconsultants included in Respondent's proposal with other subconsultants satisfactory to ESD.

B. Proposal Content

Proposals should provide a straightforward, complete and concise description of Respondent's capabilities to satisfy the requirements of this RFP. Proposals must include the following, in the order set forth below:

1. Cover Letter. A cover letter on the Respondent's letterhead that is signed by an individual with authority to contractually bind the Respondent and that includes the following:

- (a) The full legal name, address and type of legal entity, and jurisdiction in which the entity is formed (if applicable), telephone number and e-mail address of the representative who is authorized to discuss and/or negotiate the proposal.
- (b) Federal Employee Identification Number or Social Security Number.
- (c) Text explaining ownership (corporate and/or individual) of proposing entity and all subsidiaries or parent company, if applicable.
- (d) A statement that Respondent is ready, willing and able to engage in the services set forth in the proposal upon execution of contract.
- (e) A statement that Respondent accepts the Conflicts of Interest terms set forth in Section VI.B.5 to this RFP.
- (f) Identification of any exceptions or conditions to the ESD Standard Form Contract attached to this RFP as **Appendix 1**.

- (g) Indicate if Respondent is, or will partner or otherwise combine with, an MBE/WBE (Minority Business Enterprise or Women's Business Enterprise) as certified by New York State for any portion of the services requested.

2. Firm Qualifications and Experience.

- (a) A history of Respondent's experience providing compliance monitoring services or similar services within the previous five (5) years, with emphasis on successful large scale, mixed-use real estate development projects and construction scheduling. Indicate whether Respondent has experience with the critical path method (CPM) in the scheduling and management of large-scale construction projects. Such history should also detail any experience providing these services to economic development organizations, municipalities, other governmental entities, private developers, and not-for-profit and civic organizations.
- (b) Examples of up to three (3) projects that Respondent has completed in the area of compliance monitoring or similar services involving major construction projects. For each project, include: discussion about the specific role performed by Respondent and the key individual(s), any problem(s) encountered, how the problem(s) were dealt with, the outcome of the project, and to the best of Respondent's knowledge, what transpired with the project once Respondent's role in the project ended. Include the client, the name of a client contact person who is able to provide a reference, a description of the nature of the work, the size and complexity of the project, construction cost, and the amount and the agreed fee arrangements.
- (c) Description of any relevant services or activities performed in the vicinity of the Project or in the community surrounding the Project.

3. Staff Qualifications and Experience.

- (a) Name(s), title(s) and resumes of personnel who will be responsible for the performance of the requested services, clearly indicating their relevant experience and specific areas of expertise. Each resume shall be limited to two (2) pages, shall include education, professional credentials and employment history. Also, include the resumes of any MBE/WBE partner or subconsultant that will be involved in the provision of services required under this RFP, along with a description of how each such partner or subconsultant will work in connection with Respondent to fulfill the Scope of Services, distinguishing the roles, responsibilities and commitment of each team member.

- (b) An analysis or table of the hours and percentage of time to be spent by each person assigned to the Project.

4. Statement of Methodology/Management Approach.

- (a) A written narrative description of Respondent's understanding of, methodology and approach to, and any comment on, the Scope of Services described herein, and of Respondent's demonstrated ability to perform these services within the designated timeframe. Respondent should elaborate, as appropriate, on the tasks listed in the Scope of Services, including work by MBE/WBE partners or subconsultants, if any.
- (b) A detailed description of the proposed management approach to be taken for the performance of the required services. Factors addressed in Respondent's management approach shall include, but are not limited to: Respondent's proposed approach for managing communications and information gathering with Columbia; Respondent's proposed organizational structure to be responsive to ESD's needs; Respondent's proposed approach and schedule for keeping ESD timely apprised of Project status; and Respondent's proposed approach to ensuring the quality of the work product to be produced, as well as the practices and procedures Respondent follows to control the costs of the services and stay within budget.

5. Statement Concerning Conflicts of Interest.

- (a) A statement describing whether the engagement with ESD would create any potential conflict of interest, or appearance of impropriety, relating to other clients/customers of Respondent or former officers and employees of ESD. Indicate what procedures will be followed to detect, notify ESD of, and resolve any conflicts.
- (b) A statement that Respondent has not provided services to Columbia within the past 5 years; that Respondent, if selected to serve as GPP Monitor, shall not serve as FEIS Monitor nor provide services to Columbia during the time it is engaged with ESD, nor shall any MBE/WBE partner, or any subconsultant engaged by Respondent, seek such work or negotiate to perform any such work for Columbia during such period; that Respondent, if selected to serve as GPP Monitor, shall not work for Columbia in any capacity within two years after the engagement as GPP Monitor has ended and shall be permanently barred from performing services for Columbia concerning any matter for which it was directly involved as GPP Monitor.

- (c) PLEASE BE ADVISED: No current employee of Columbia may serve as the GPP Monitor (nor as a consultant to the GPP Monitor) nor can anyone serve as the GPP Monitor (or consultant) who was an employee of Columbia within three years of such persons leaving employment with Columbia. No person receiving a pension or any deferred compensation from Columbia shall be qualified to serve as GPP Monitor. The GPP Monitor shall not derive any income from performing services for Columbia or from any contractor or subcontractor engaged by Columbia on the Project.
- (d) Specify any past, pending or threatened litigation or administrative or state ethics board or similar body proceedings to which Respondent or any of Respondent's partners are a party and which would either materially impair Respondent's ability to perform the services enumerated herein, or, if decided in an adverse manner, materially adversely affect the financial condition of Respondent.
- (e) Any Respondent selected pursuant to this RFP will be required to advise ESD of any developments during the term of this engagement with respect to existing and/or any new civil or criminal legal investigations, pertinent litigation and/or regulatory action involving Respondent or its employees which could impact the Respondent's role or ability to fulfill its obligations.

6. Fee Proposal. Specify the total proposed annual fee; hourly rates for calendar years 2014 and 2015 for each person cited in the proposal; reimburseable expenses proposed to be charged; and any other fees or charges to ESD. Indicate whether Respondent is willing to accept any cap on the compensation Respondent will receive. State whether the fee proposed by Respondent is based upon reduced fees Respondent offers to municipalities, governmental entities, economic development or nonprofit organizations, and civic organizations. ESD will require Respondent to represent that proposed billing rates and fees are equivalent or less than those charged to any other clients for equivalent services. For purposes of the fee proposal, Respondent should assume that all of the reports furnished to ESD shall be in writing, however ESD may, at its discretion, request that any report be provided orally instead of in writing.

The GPP Monitor will be required to furnish ESD with a good faith budget of the costs to be incurred in the following 12 months by the GPP Monitor, for approval by ESD. ESD will not permit the GPP Monitor to exceed such proposed budget during the applicable 12-month period without ESD's prior written approval.

C. Additional Proposal Requirements and Certifications

1. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women. ESD's Non-

Discrimination and Contractor & Supplier Diversity policies shall apply to this contract. Minority/Women-owned Business Enterprises are encouraged to respond. It is the policy of the State of New York and ESD to comply with all federal, State and local laws, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status. Further, pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises ("MWBEs") 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 and Women-Owned Business Enterprises: Evidence from New York" (the "Disparity Study"). The Disparity Study found evidence of statistically significant disparities between the level of participation of MWBEs in state procurement contracting versus the number of MWBEs that were ready, willing, and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified MWBEs program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that ESD establish goals for maximum feasible participation of New York State Certified MWBEs and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this procurement, ESD hereby establishes an overall goal of 23% for MWBE participation: 13% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation. The selected Respondent must document good faith efforts to provide meaningful participation by MWBEs as partners, subcontractors, or suppliers in the performance of this contract, and agrees that ESD may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at www.ny.newnycontracts.com at Search for Certified Firms/MWBE Directory. For guidance on how ESD will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, the selected Respondent acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and ESD may withhold payment from the Contractor as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had Respondent achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, Respondent agrees to the following:

- (a) Respondent shall submit with its proposal a Schedule of Minority/Women Owned Business Participation in the form attached hereto as Schedule A-1 to Appendix 2. Any modifications or changes to the Schedule after the Contract Award and during the term of the Contract must be reported on a revised Schedule and submitted to ESD.
- (b) ESD will review the submitted Schedule, or any modifications thereof, and advise Respondent of ESD's acceptance or issue a notice of deficiency within 30 days of receipt thereof.
- (c) If a notice of deficiency is issued, Respondent agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to ESD a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify Respondent and direct Respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- (d) ESD may disqualify Respondent as being non-responsive under the following circumstances:
 - i) If Respondent fails to submit a Schedule of Minority/Women Owned Business Participation;
 - ii) If Respondent fails to submit a written remedy to a notice of deficiency;
 - iii) If Respondent fails to submit a request for waiver; or
 - iv) If ESD determines that Respondent has failed to document good faith efforts.

Respondent shall attempt to utilize, in good faith, any MBE or WBE identified within its Schedule during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

Respondent shall submit a Contractor's Quarterly Compliance & Payment Report to ESD by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, Respondent agrees with all of the terms and conditions of Schedule C to the ESD Standard Form Contract attached as Appendix 1 to this RFP. Contractor is required to ensure that it and any Subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin,

sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this contract; or (ii) employment outside New York State.

Respondent further agrees, where applicable, to submit with its proposal a Staffing Plan (in the form attached as Schedule A-2 to Appendix 2 attached to this RFP) identifying the anticipated work force to be utilized on the Contract. Respondent further agrees, if awarded the Contract, to submit to ESD an updated Schedule of Minority/Women Owned Business Participation (in the form attached as Schedule A-1 to Appendix 2 attached to this RFP), as necessary, identifying the workforce actually utilized on the Contract if known.

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

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

ESD's Office of Contractor & Supplier Diversity ("OCSD") is available to assist Respondent in identifying New York State certified M/WBEs that can provide goods and services in connection with the Contract. If Respondent requires M/WBE listings, please call the OCSD at (212) 803-3244.

2. State Tax Law Section 5-a. Any contract resulting from this solicitation is 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-220CA, a copy of which is attached as Attachment 4.6 to Schedule A to the ESD Standard Form Contract attached as Appendix 1 to this RFP. 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-220CA. Solicitation responses that do not include a properly completed ST-220CA will be considered incomplete and non-responsive and may not be considered for contract award. Only the prime consultant completes Form ST 220CA, but Schedule A to Form ST 220CA

requires detailed information from the subconsultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the subconsultants.

3. 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 RFP. These Procurement Requirements: (1) govern permissible communications between potential Respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that: (x) all communications regarding this RFP, 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 person listed below; (y) the completion by Respondents of “Offerer Disclosure of Prior Non-Responsibility Determinations” and “Offerer’s Affirmation of Understanding and Agreement” pursuant to State Finance Law (these two forms are attached as Attachments 4.7-(1) and 4.7-(2) to Schedule A to ESD Standard Form Contract attached as Appendix 1 to this RFP); and (z) periodic updating of such forms during the term of any contract resulting from this RFP. **Respondents must submit the “Offerer Disclosure of Prior Non-Responsibility Determinations” and the “Offerer’s Affirmation of Understanding and Agreement” forms pursuant to State Finance Law as part of its proposal.**

The Procurement 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. **For the purpose of compliance with State Finance Law Sections 139-j, contacts with Ms. Destiny Burns at dburns@esd.ny.gov are considered permissible.**

This is not a complete presentation of the provisions of the Procurement Requirements. A copy of State Finance Law Section 139-j and 139-k can be found at:

<http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and the subconsultants must complete the forms required above.

4. Vendor Responsibility. **ESD encourages 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 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.

Respondents 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 and execute accordingly pertaining to the company's trade industry.

5. Compliance with the Iran Divestment Act

As part of ESD procurement guidelines, upon submission of proposal, the 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.

6. 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 real property (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, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

7. Encouraging the Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this ESD contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as sub-contractors, suppliers, protégés or other supporting roles (herein collectively called "Subcontractors").

Bidders/proposers need to be aware that, if selected through this ESD solicitation, they will strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in performing the contract, including without limitation: (i) purchasing commodities that are of equal quality and functionality; and (ii) in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

In furtherance of this goal, bidders are required to complete and return with their bids the form titled "Encouraging Use of New York State Businesses in Contract Performance".

APPENDIX 3

SUBMISSION CHECKLIST

1. See Proposal Content at RFP Section VI.B.(1) – (6).
2. Schedule of Minority/Women Owned Business Participation (Appendix 2, Schedule A-1).
3. Staffing Plan (Appendix 2, Schedule A-2).
4. Form ST-220-CA (Attachment 4.6 to Schedule A to ESD Standard Form Contract attached as Appendix 1 to this RFP).
5. Offerer Disclosure of Prior Non-Responsibility Determinations (Attachment 4.7-(2) to Schedule A to ESD Standard Form Contract attached as Appendix 1 to this RFP).
6. Offerer Affirmation of Understanding and Agreement (Attachment 4.7-(1) to Schedule A to ESD Standard Form Contract attached as Appendix 1 to this RFP).
7. Iran divestment Act Statement
8. Vendor responsibility
9. Encouraging the Use of New York State Businesses Form