

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

Construction Management Services – Episcopal Church Home, Buffalo, NY

Request for Proposal

**PROPOSAL DUE DATE: May 29, 2013 at 2PM
(Late proposals cannot be accepted)**

I. BACKGROUND

The New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) is seeking a Construction Management (“CM”) firm to coordinate, oversee and design all aspects of the asbestos/environmental remediation and potential demolition of portions of the former Episcopal Church located on Busti Avenue in the City of Buffalo (the “Property”). The Property contains five separate parcels totaling approximately 3.72 acres and contains multiple buildings in excess of 187,000 square feet. The complex previously housed an adult day care facility that closed in 2007 and a skilled nursing facility that ceased operation in 2005. Two of the buildings located on the Property are listed as local landmarks: the Hutchinson Chapel and Thornton Hall. It is intended that ESD will acquire the Property from the current owners, stabilize and remediate all asbestos/environmental contamination and demolish the non-historic structures in order to make the Property available for future economic development activities.

The selected CM will be tasked will analyzing all existing reports and assessments of the Property in order to provide recommendations to ESD on how to complete the project in the most timely and cost efficient manner possible. In addition, the CM will be required to oversee all aspects of the project on behalf of ESD which shall include preparing all design and bid documents necessary for the removal of hazardous waste and asbestos remediation and household hazardous waste and the selected demolition of the Property.

The selected CM will be also required to maintain, stabilize and secure the Property during the course of project which is anticipated to be completed within one year.

II. SCOPE OF SERVICES AND DELIVERABLES

The selected CM will be required to complete the following tasks:

1. Property Assessment and Recommendation – Assemble and review all existing environmental and conditions assessments and complete all necessary environmental or other assessments needed to recommend to ESD a course of action that will cause the remediation/selected demolition of the Property such that the project will be completed in a timely and cost efficient manner.
2. Prepare Design Drawings– Prepare all design documents, costs estimates and specifications for the hazardous waste removal/asbestos remediation, selected demolition and air monitoring and testing requirements necessary to complete the Property.
2. Preparation of Bid Documents – Develop and assemble bid documents and provide all bid forms, front ends, and general conditions/supplementary (special) conditions and ESD approved contract and other notes necessary to complete the bid documents for: 1) hazardous material and asbestos remediation; and 2) selected demolition of the Property. Assist ESD with preparation of Contract Reporter Advertisements, distribution of bid packages, scheduling of pre-bid meetings and site walk through(s) with contractors.

3. Bid Process Assistance – Assist ESD with contractor briefings, bid questions, investigation of contractor qualifications, bid opening and recommendations for contract awards. Obtain schedule of values or similar breakdown of value of work in relation to schedule for purpose of administration.
4. Wage Administration- Assist with obtaining New York State prevailing wage schedule, collecting reporting forms from contractors, verify accuracy, and related administration thereof; investigate complaints, and collect required information such as transcript of payrolls.
5. Insurance and Bonds – Assist ESD with maintaining current file on all required insurance certificates, payment and performance bonds, and collection of all lien releases from contractors.
6. Weekly Job Site Meetings- Host weekly (or more/less frequently as needed) job site and other coordination meeting over 12 month period with contractors and ESD staff and coordinate progress items and issues with ESD staff. Prepare and distribute minutes of progress meetings. Prepare and coordinate a master schedule of all activities required to be completed for project completion.
7. Supervision – Oversee all contractors, and conduct daily inspections of work areas during any abatement operations.
8. Outside Agency Coordination – Provide all necessary notifications to public entities having jurisdiction of the project. Coordinate with local and State governmental agencies (including traffic plan, Fire department reviews, and any State Environmental Permits) on elements of removal activities. Monitor all local, State and Federal health and safety requirements of the construction contract by the contractors/subcontractors including reporting requirements to outside agencies. Ensure appropriate safety precautions are implemented by all contractors and subcontractors.
9. Affirmative Action/MWBE Reporting Requirements – Obtain New York State Certified MWBE Listings for bid packages. Collect from contractors/subcontractors required MWBE Compliance Report forms for submission to ESD.
10. ESD Briefings – Prepare and present monthly report to ESD on the progress of abatement/remediation/demolition, the progress versus schedule, draw downs versus schedule of values, etc.
11. Change Order Management – Collect and log-in and review all Issues, Request for Information's and Change Order requests as to their legitimacy and accuracy of cost proposals. Advise ESD on proposed and on-going changes to the scope and cost of

remediation/demolition contracts. Receive all submittals from contractors, review, log-in and forward to ESD with recommendations. Review changes to the schedule and advise ESD staff of implications. Prepare parallel cost estimates for said changes prior to receipt of contractor goals. Assist in negotiation of change orders and prepare approved change orders for ESD approval.

12. Project Cost Control Reporting- Review/approve all contractor applications for payment. Assist ESD payment processing requirements, and submit to ESD for contractor payment approval. Assist ESD with managing the overall Master Project Budget.
13. Collect and Review of Hazardous Waste Manifests- Establish procedures with contractors and ESD for collection, review, and certification of all manifests for hazardous waste disposal items including dissemination to appropriate parties.
14. Punch List Items- Review and coordinate project punch list activities with ESD and contractors and assist ESD in obtaining project close out data and reports.
15. Environmental Phase Schedule and Safety Program- The CM shall prepare and update a remediation phase schedule for proposed work, including all activities and milestones required to complete the work. Additionally, the CM shall develop a Project Safety Program for use by CM's staff only. The CM shall require all contractors to submit their safety plans for review prior to beginning work. Plans shall comply with all OSHA, Federal, State and Local Codes for implementation on the project. The CM shall provide staff or a Safety Representative as required with appropriate level of OSHA and Hazwoper training certifications. CM will review on-going data from air sampling and other testing activities. CM will be responsible for providing all technical analysis and support to enable ESD to comply with environmental statutes, rules and regulations including the New York State Environmental Quality Review Act.
16. Allowances- CM shall include in the Contract Sum all allowances stated in this RFP. Items covered by allowances shall be supplied for such amounts and by such persons or entities as approved by ESD. The CM's cost of labor, overhead, profit and other expenses for stated allowance amounts shall be included in their base bid and not in the allowances. Any unused allowance shall not be paid to the CM and will remain with ESD:
 - 16a Carrying Costs- ESD is considering entering into a temporary parking/maintenance agreement with the Buffalo and Fort Erie Public Bridge Authority to support Customs and Border Protection and other agency staff parking during renovations at the Customs Warehouse Building. In the event that such an agreement is not consummated, the CM shall be responsible for operations and maintenance of the Property during the Project and shall include an allowance of \$250,000 (Two Hundred Fifty Thousand Dollars and Zero

Cents), to cover the cost of operating expenses associated with the operation, stabilization and maintenance of the Property until project completion. Carrying costs shall be an allowance that pays the fees that are related to operating expenses such as: accounting expenses, license fees, maintenance (snow removal, trash removal, janitorial services, landscape services), repairs, stabilization, office expenses, supplies, utilities, security, insurance, and property management staff.

16b Air Monitoring/ Sampling – An allowance of \$100,000 (One Hundred Thousand Dollars and Zero Cents) to retain the necessary contractors, as directed and approved by ESD, to meet State and Federal asbestos and environmental requirements.

III. INSTRUCTION TO BIDDERS

Your proposal must include the following:

1. Qualifications Statement – Provide a narrative of the Consultant’s qualifications to complete the project. List at least five similar projects completed by the Consultant that are most relevant to this Project.
2. Current Projects – List all current projects and their current status, including percentage complete, for all firms on the Consultant’s team.
3. Experience – Describe the roles, qualifications and relevant experience of each team member.
4. Organization Chart – Include an organizational chart identifying members of the Consultant’s team as well as their respective administrative management and professional responsibilities.
5. Litigation – Submit a report on any and all litigation during the past three (3) years and the current status of all such litigation and contingent liabilities based on such litigation.
6. Fee Proposal- Proposals shall be prepared on a time and materials basis plus expenses, with a not to exceed price estimate. Estimates shall compose the overall estimate for the work (for purposes of tracking expenses separately).
 - a) Provide person-hour breakdown and hourly rate in chart format to aggregate fee for services described in Tasks listed above.
 - b) The Task Budget and Fees shall be divided into one column and added together.
 - c) Describe the projected reimbursable expenses (Note: sales tax excluded)
 - d) Specify hourly rates per person, and specify period that the rates apply to, and any “multipliers”, if any.

No extra work beyond the scope of the prospective Agreement shall be performed by the Contractor unless ESD shall, in writing, specifically direct such work to be performed, and an authorization for work shall have been given by ESD. Additional

compensation to the Consultant shall be at the rates negotiated between the Consultant and ESD. ESD may, at its option, process extra work as negotiated amendments to its Agreement with the Consultant.

Inquiries and submissions

Five (5) copies of each proposal and one (1) electronic copy on CD/USB must be received by May 29, 2013 at 2PM. Late proposals cannot be accepted. Faxed or electronically transmitted proposals will not be accepted.

Proposals shall be delivered clearly labeled as “Construction Management Services – Episcopal Church Home, Buffalo, NY ” to:

Stephen Gawlik
Senior Counsel
Empire State Development
95 Perry Street, Suite 500
Buffalo, New York 14203-3030

Submission of Questions: All questions must be emailed to **Stephen Gawlik** at sgawlik@esd.ny.gov with “Submission of Questions” in the subject line by **May 17, 2013**

Responses to all questions of a substantive nature will be provided in writing, via ESD’s website (<http://esd.ny.gov/CorporateInformation/RFPs.html>) to all known potential bidders. Bidders are encouraged to check the web site frequently for an updated list of questions and answers. A list of questions about the work that are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will also be posted on ESD’s web site, along with the electronic version of this RFP. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal and are urged to check ESD’s web site frequently for notices of any changes, additions or deletions to the RFP.

If you are unable to access the Web site, please contact Stephen Gawlik to arrange for alternate delivery. All questions and answers shall become a formal addendum to the RFP.

Schedule of pertinent dates

Release of RFP	May 6, 2013
Deadline for Submission of Questions	May 17, 2013
Submission of Proposals	May 29, 2013 at 2PM
Announcement of Successful Bidder	June 20, 2013 (tentative)
Contract Begins	July 1, 2013 (tentative)

IV. MWBE REQUIREMENTS

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

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, Empire State Development (“ESD”) recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-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 and Women-Owned Business Enterprises: Evidence from New York" (“Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises 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 minority and women-owned business enterprises 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 establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises (“MWBE”) 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 solicitation, ESD hereby establishes an overall goal of 20% for MWBE participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the subject contract (“Contract”) must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor 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:

<http://www.esd.ny.gov/MWBE/directorySearch.html>

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, Contractor 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 the Contractor 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, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on Form E6 with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to ESD.
- B. ESD will review the submitted MWBE Utilization Plan and advise the Bidder of ESD acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the OFFICE OF CONTRACTOR AND SUPPLIER DIVERSITY, EMPIRE STATE DEVELOPMENT CORPORATION, 633 THIRD AVENUE, 33rd FLOOR, NEW YORK, NY 10017, 212-803-3244 (ph), 212-803-3223 (fax), 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 the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on Form E4. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. ESD may disqualify a Bidder as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit a MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If ESD determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, 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.

Contractors are required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report on Form E5 to the OFFICE OF CONTRACTOR AND SUPPLIER DIVERSITY, EMPIRE STATE DEVELOPMENT CORPORATION, 633 THIRD AVENUE, 33RD FLOOR, NEW YORK, NY 10017, 212-803-3244 (ph), 212-803-3223 (fax), 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, the Bidder/Contractor agrees with all of the terms and conditions of Appendix B regarding participation by minority group members and women with respect to state contracts. The terms contained in Appendix B shall be incorporated into the contract with the selected Contractor. The 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 the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form E2) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the ESD, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will 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 the 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.

V. SELECTION CRITERIA

Proposals that meet all the requirements of the RFP will be evaluated by the Review Committee based on the following Selection Criteria:

- Experience
- Ability to perform the required services
- Knowledge and Technical Expertise
- Cost

ESD reserves the right to short list proposals and to interview prospective consulting teams prior to final selection. ESD also reserves the right to seek final and best offers from bidders prior to making any contract award.

VI. MISCELLANEOUS CONDITIONS

The issuance of this RFP and the submission of a response by a firm or the acceptance of such a response by ESD does not obligate ESD in any manner. ESD reserves the right to:

1. amend, modify or withdraw this RFP;
2. revise any requirement of this RFP;
3. require supplemental statements or information from any responsible party;
4. accept or reject any or all responses hereto;
5. extend the deadline for submission of responses hereto;
6. negotiate or hold discussions with any firm and to correct deficient responses which do not conform to the instructions contained herein; and
7. cancel, or reissue in whole or in part, this RFP, if ESD determines in its sole discretion that it is its best interest to do so.

ESD may exercise the foregoing rights at any time without notice and without liability to any responding firm or any other party for its expenses incurred in preparation of responses hereto or otherwise. All costs associated with responding to this RFP will be at the sole cost and expense of the responding firm.

All information submitted in response to this RFP is subject to the Freedom of Information Law (FOIL), which generally mandates the disclosure of documents in the possession of ESD upon the request of any person unless the content of the document falls under a specific exemption to disclosure. In addition, all Proposals may be discussed at meetings of the ESD Directors, which meetings are subject to the Open Meetings Law.

Following final selection of the Consultant, ESD will prepare a contract defining all Project terms and conditions and the selected Consultant's responsibilities. See Schedule A for generally applicable contract terms and conditions which can be found at:

http://www.esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/ScheduleA_November2009.pdf. Schedule A shall be made part of and incorporated in the contract between ESD and the

Consultant. To the extent of any conflict between this RFP and Schedule A, the terms of Schedule A shall apply unless the terms and conditions of this RFP expressly state otherwise.

VII. INSURANCE REQUIREMENTS

The selected contractor will be expected to comply with ESD's insurance requirements, as listed below.

1. Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate
2. Auto Liability insurance - \$1 million per occurrence / \$1 million aggregate
3. Excess Umbrella Liability insurance - \$1-5 million per occurrence / \$ 1-5 million aggregate minimum
4. Professional Liability insurance - \$1 million minimum (preferably \$5 million)
5. Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits
6. Must show evidence of Disability insurance coverage at State statutory limits
7. The NYS Urban Development Corporation d/b/a Empire State Development (ESD) must be named as an additional insured on a primary and non-contributory basis on all of the following policies: Commercial General Liability, Auto Liability, and Excess Liability policies

All policies above should include a waiver of subrogation in favor of ESD.

VIII. STATE TAX AND FINANCE LAW REQUIREMENTS – PROHIBITION ON LOBBYING

1. 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-CA or an affidavit that the Respondent is not required to be registered with the State Department of Taxation and Finance. A copy of each form can be found in Appendix A.**

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-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable. Moreover, if applicable, certificates of authority must be attached by the prime consultant and all the sub-consultants.

2. 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: (1) 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 persons listed below; (2) 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 (each form is accessible at the Required Forms for Vendors link at the ESD web site under “RFPs/RFQs”); and (3) 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 of and Agreement pursuant to State Finance Law, as part of their submittal. A copy of the forms are attached as Appendix A.**

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, contact with Stephen Gawlik, Senior Counsel is considered permissible. Contact information for Mr. Gawlik is provided in *Section III*.

This is not 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://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 Procurement Requirements. Both the prime consultant and the sub-consultants complete the forms required above.

3. 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.

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

4. Office of State Comptroller Review

This contract may be subject to review and approval by the Office of the State Comptroller ("OSC") pursuant to Public Authorities Law section 2879-a and the regulations issued thereunder. Such OSC review and approval may be required of contracts with a value in excess of one million dollars, or modifications to contracts that result in an aggregate value in excess of one million dollars, where such contracts are paid in whole or in part with monies appropriated by the State, or were awarded on a basis other than a competitive procurement (as that term is defined in the law and regulations). If this contract is subject to OSC review and approval, then the contract shall not be valid and enforceable, nor shall ESD have any liability of any kind arising from or in connection with this contract, unless and until OSC approval has been received.

5. Compliance with the Iran Divestment Act

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

"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."

The list in question is maintained by The Office of General Services. No bid that fails to certify compliance with this requirement may be accepted as responsive, unless the bidder includes a statement in compliance with the Iran Divestment Act.