



**NEW YORK**  
STATE OF  
OPPORTUNITY™

**Empire State  
Development**

# **Request for Proposals to serve as Javits Center Expansion Design Build Procurement Integrity Monitor**

**ISSUED: September 8, 2016**

**AMENDED: September 22, 2016 (Addendum 2)**

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until approval of the Contract. Bidders are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below (refer to: <http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>).

Designated Contacts for this Procurement:

Primary Contact:	Samantha Lord
Secondary Contact:	Daniel Friedman

**PROPOSAL DUE DATE AND TIME:**

**Thursday, September 29, 2016, 12:00 pm ET**

**(Late proposals cannot be accepted)**

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## **I. INTRODUCTION**

The mission of New York State Urban Development Corporation (UDC) d/b/a Empire State Development (ESD) is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing and other forms of assistance.

The New York Convention Center Development Corporation (CCDC or Corporation) is an ESD subsidiary and is the owner of the Jacob K. Javits Convention Center (Existing Facilities) in New York City. The Corporation and the New York State Operating Corporation (CCOC or Operator) are New York State public benefit corporations created pursuant to Laws of 1979, Chapter 35. The Corporation's enabling legislation, codified at Unconsol. Laws §6262, authorizes it to develop and construct the existing Javits Center and to develop and construct its expansion and renovation. The Operator's enabling legislation, codified at Public Authorities Law §2560 et seq., authorizes it to operate and maintain the Existing Facilities, and to approve plans for its expansion and renovation. The Corporation and the Operating Corporation have separately appointed Boards of Directors. The Corporation owns the Existing Facilities' property and leases it to the Operating Corporation.

On July 18, 2006 the board of directors of both ESD and CCDC adopted a General Project Plan (GPP) for the Jacob K. Javits Convention Center Expansion and Renovation Civic and Land Use Improvement Project. On May 18 and May 19, 2016, the board of directors of CCDC and ESD, respectively, modified the GPP and affirmed the 2006 General Project Plan, as amended, authorizing an expansion of the Existing Facilities in a design build RFP.

## **II. OVERVIEW**

The Existing Facilities opened in 1986 and constitute the busiest convention center in the United States, encompassing 2.1 million square feet, including 840,000 square feet of exhibition space. In 2015, the Existing Facilities were operational for 337 days of the calendar year. Since its opening, the Existing Facilities have been New York City's primary venue for large conventions, exhibitions and major trade shows. These events are key contributors to the New York City and State economy, stimulating direct and indirect employment, economic activity, tax revenues, and strongly supporting New York City's hotel, restaurant, tourism and entertainment industries. The Manhattan neighborhood around the Existing Facilities has expanded in recent years, including the Hudson Yards redevelopment project, and continues to grow.

A major renovation of the Existing Facilities was completed in 2014 that included a new façade, new entrances, a new green roof, a 26% reduction in energy use, a vastly improved visitor experience and state-of-the-art operations upgrades. The 2014 renovation greatly enhanced the public perception of the Existing Facilities, but current operations and the Existing Facilities' ability to compete with the convention center market are challenged by the new neighborhood development and the unavailability of parking for trucks serving the Existing

Facilities. Expansion of the Existing Facilities is necessary to enable the Existing Facilities to accommodate larger events and the truck traffic generated by events, and bring new businesses and opportunities to New York without conflicting with commercial and residential development.

On April 1, 2016, the Legislature passed the Enabling Legislation authorizing the Corporation to use the design-build method of contracting for construction projects related to the Existing Facilities. In May 2016, CCDC released a Request for Qualifications to solicit Statements of Qualifications from design builders to identify a short-list of potential Proposers to participate in a Request for Proposals (RFP). <https://www.governor.ny.gov/news/governor-cuomo-announces-request-qualifications-design-build-teams-major-expansion-jacob-k>. In June 2016, CCDC released a RFP to solicit sealed Proposals from three Short-listed Respondents for the permitting, design, construction, and commissioning of the expansion (New Facilities) of the Existing Facilities.

Given the value and complexity of the project and the statutory procurement methodology, a third-party independent assessment of the integrity of the procurement process will add value to the design build procurement process.

### III. SCOPE OF WORK

The Corporation is seeking an experienced, qualified contractor to conduct procurement integrity monitoring and reporting services. This includes the following:

- **Process Evaluation:** Ensure that procurement process incorporates best practices to achieve process transparency, auditability, integrity, confidentiality, competitiveness, fairness and security;
- **Process Enhancements:** Make recommendations for enhancement to improve process as necessary; and
- **Compliance Monitoring:** Monitor implementation of process controls to ensure compliance therewith.

In providing these services, the awarded Bidder shall:

- Obtain and review selected documentation / processes relating to integrity and security of the procurement process, including:
  - collect and evaluate all relevant policies and procedures
  - interview those charged with managing and executing this design-build procurement process
- Make recommendations for enhancements of the process to appropriate personnel
- Perform monitoring through:
  - unannounced attendance at meetings selected on a random basis
  - review of documents produced by the procurement process
  - interviews with those involved in process

- physical observation of compliance with all critical security/integrity-related controls (e.g., chain of custody, distribution of documents and information, document security, confidentiality, document duplication/destruction/retention)
- communication with appropriate personnel as to any issues found so as to facilitate immediate remediation
- Test compliance with established process by:
  - observing the opening of proposals responding to the design build RFP
  - having a daily presence during the initial review and evaluation of the proposals
  - observing that security protocols were followed
  - observing that all participants in the procurement process executed confidentiality and non-disclosure agreements
  - monitoring both preparations for and the actual presentations to the Selection Committee
  - review of pricing information
  - monitoring discussions with the proposers
  - observing the presentation to the Selection Executives
  - monitoring the limited negotiations with the “Best Value” proposer
- Prepare a final report to the President of the Convention Center Development Corporation and the Convention Center Development Corporation and the Convention Center Operating Corporation Boards of Directors and the preparation of interim reports as necessary
- Any other related tasks as may be requested by CCDC

The awarded Bidder will, as part of these services, verify that:

- All participants in the procurement process were aware of the need for confidentiality regarding the ongoing evaluations of the design-build proposals
- Confidential information and documents were appropriately safeguarded
- The technical evaluation of the design-build proposals was not influenced by any consideration of the price of the various proposals
- The Selection Committee’s decision was made based upon the strengths and weaknesses of the design-build proposals, and was not influenced by any other consideration

It is the Corporation’s intent to create a spirit of cooperation between the Bidder selected through this RFP and the procurement team members in the protocol-assessment process.

#### **IV. BACKGROUND**

The award of a contract for the Javits Center Expansion will be the result of a two-part procurement process. A short list of qualified proposers was identified through a Request for Qualifications (RFQ). The RFQ is accessible on ESD’s website:

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

The Javits Center Expansion RFP was released June 1, 2016 and procurement is underway. The RFP and procurement documents are in a secure data room limited to proposers and the Corporation's Consultant Support Team. The contractor selected through this Procurement Integrity Monitor RFP would be granted access to these documents upon contract award.

The procurement schedule for the Javits Expansion RFP is as follows:

<b>Date</b>	<b>Activity</b>
June 20, 2016	Issue RFP to Short-listed Respondents
June 29, 2016	All Proposer kick-off meeting
July – September	A series of Individual Meetings with each proposer
Week of July 25, 2016	Site tours
September 9, 2016	Final submission date for Alternative Technical Proposals
September 16, 2016	Final submission date for Inquiries
October 1, 2016	Anticipated final response to Inquiries by the Corporation / publication of final RFP / Draft Design Build Contract
October 31, 2016	Final date for Proposer's delivery of any executed Stipend Agreement
October 31, 2016	Proposal Submittal Date
November/December, 2016	Evaluation / Proposer clarifications, as necessary
Early 2017	Corporation's award of the Design-Build Contract and associated government approvals

The Corporation has released six addenda to the Javits Expansion RFP to date and anticipates two additional addenda prior to the proposal submission deadline. The final addendum will include a revised version of the draft Design Build contract that the Corporation anticipates each Proposer to substantially agree to with the submission of their proposal. The Corporation's intent is to limit negotiations with the selected Design Builder in the interest of both a fair and open procurement process as well as the procurement time line.

## **V. SCHEDULE OF DATES**

It is anticipated that a contract will be awarded in response to this Procurement Integrity Monitor RFP based on the following schedule:

Release of RFP	Thursday, September 8, 2016
Deadline for Submission of Questions	Monday, September 19, 2016, 12:00 pm ET
Corporation to Respond to Questions	On or about Thursday, September 22, 2016
Submission of Proposals (date and time)	Thursday, September 29, 2016, 12:00 pm ET
Announcement of Successful Bidder	On or about Tuesday, October 11, 2016
Anticipated Contract Start Date	Monday, October 17, 2016

Please note, the Corporation reserves the right to change any of the dates stated in this RFP.

## **VI. SELECTION**

The Corporation will evaluate each proposal based on the “Best Value” concept. This means that the proposal that “optimizes quality, cost, and efficiency among responsive and responsible Offerers” shall be selected for award (State Finance Law, Article 11, § 163).

The Corporation will determine which proposal best satisfies its requirements. The Corporation reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and price. Proposals failing to meet the requirements of this document may be eliminated from consideration. Qualified staff/individuals will evaluate all submitted proposals. The Corporation may request clarification of a proposal. The evaluation process will include separate technical and cost evaluations and will be conducted as set forth herein.

Upon review of proposals submitted by Bidders, the Corporation may, at its discretion, submit to Bidders written questions and requests for clarification relating to their Technical, Price, and/or Administrative Proposals. Bidders will be provided a reasonable period of time in which to submit written responses to the Corporation’s requests for clarification.

Other than to provide clarifying information as may be requested by the Corporation, no Bidder will be allowed to alter its proposal or add information.

### **1. Completeness**

The Corporation will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements defined in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of the Corporation, may be rejected. All proposals passing the Completeness Review will be evaluated.

### **2. Evaluation**

#### **Technical Evaluation (65 percent)**

An Evaluation Committee will independently score each Technical Proposal that meets the submission requirements of this RFP. Evaluation Committee members will score Technical Proposals to identify Bidders with the highest probability of satisfactorily providing the services described in this RFP. Individual Evaluators scores will be averaged to calculate a technical score for each responsive Bidder. The technical evaluation is 65 percent of the final score with the following evaluation criteria categories:

- Firm Experience and Qualifications
- Staff Experience and Qualifications
- Project Plan / Approach

Evaluations will be based on the Bidder’s demonstration of its ability to provide the services required through its Technical Proposal. Considering the above criteria, the Corporation may

review and check Bidder and/or staff references. Any missing references or the inability to contact a reference provided by a Bidder will not be looked upon favorably and may result in a reduction of points. Evaluators may reconsider any technical scores as a result of these reference checks.

During the evaluation process, the Corporation may require clarifying information from a Bidder. If specific sections of the written proposal require clarification, the Corporation will identify the section(s) and information requested in writing. In addition to references, the Corporation may use the proposal, and the Corporation's own investigation of a Bidder's qualifications, experience, ability or financial standing, and any other material or information submitted by the Bidder in the course of evaluation and selection under this RFP. The Corporation reserves the right to contact other sources not necessarily identified in the proposal to obtain information.

### **Diversity Practices (5 percent)**

Respondents to the RFP will be evaluated for Diversity Practices using the NYS Diversity Practices Scoring Matrix. Up to 5 percent of the score will be awarded based upon the contents of the Diversity Practices Questionnaire submitted by each Respondent to the RFP.

### **Price Evaluation (30 percent)**

The Corporation will examine the Price Proposal documents and review them for responsiveness. If a Price Proposal is found to be non-responsive, that proposal will be eliminated from consideration.

All complete, responsive proposals will receive a Price score.

Price Proposals will be evaluated on a pre-determined formula using the Bidder's proposed not-to-exceed hourly rates. The maximum score will be allocated to the proposal with the lowest cost according to this formula. All other proposals will receive a proportionate score to the proposal with the lowest price, according to the following formula:

Price points awarded = (maximum potential points) X (Low Bid / Proposer's Bid)

### **Total Score**

The Technical, Diversity Practices, and Price Scores will be added to achieve a total composite score.

## **3. Selection**

### **Selection**

The Bidder with the highest total composite score will be selected as the Contractor. The Corporation expects to award a contract as a result of this RFP; however, the Corporation reserves the right to not award a contract, at its sole discretion.

- Notification of selection/non-selection will be sent to Bidders by e-mail.

- The Request for Proposals and all amendments/clarifications thereto, and the proposal submitted by the successful Bidder and any clarifications thereto, will serve as the basis for, and will be included as appendices to, the contract with the Corporation.
- In the event an agreement cannot be made with the highest scoring qualified Bidder, the Corporation has the right to negotiate with the next highest scoring qualified Bidder.
- The delivery of services based on an approved contract is expected to commence on or about October 17, 2016.
- Upon contract award, public announcements or news releases pertaining to the contract shall not be made without the prior written consent of the Corporation.

### **Debriefings**

Unsuccessful Bidders shall be notified upon the Corporation's selection of a Contractor. Bidders may, within five (5) business days of notification of selection/non-selection, request a debriefing to discuss the evaluation of their proposal.

## **VII. SUBMISSION OF PROPOSALS**

The Bidder should submit a proposal that clearly and concisely provides requested information. Emphasis should be concentrated on conformance to the RFP instructions and requirements, as well as completeness and clarity in its proposal response. The Bidder is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with these instructions or do not meet the full intent of all the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive.

To assist Bidders, a Proposal Checklist is located at the end of this RFP. A proposal that does not provide all the information requested below may be subject to rejection. A complete proposal for this RFP is comprised of three (3) separate sealed proposals: Technical, Price, and Administrative. Please see below for content and submission details.

### **Submission of a Complete Three-Part Proposal**

Firms submitting a proposal are indicating their acceptance of the conditions in this RFP. Submission of proposals in a manner other than as described in these instructions (e.g., facsimile, electronic transmission) will not be accepted. When submitting each proposal (Technical, Price, and Administrative), Bidders will comply with the following:

1. Technical Proposals, Price Proposals, and Administrative Proposals will be submitted in separately sealed packages
2. "Original" documents will have an original signature and be clearly marked "Original"
3. Clearly mark the outside packaging for each set of sealed proposals (Technical, Price, and Administrative);
4. Clearly mark the original and each copy as "**RFP – Javits Expansion Procurement Integrity Monitor Proposal submitted by [Bidder's name]**"
5. Each Bidder must submit:
  - Two (2) originals, four (4) hardcopies and one (1) text-searchable electronic copy on CD or flash drive of the *Technical Proposal*.

- Two (2) originals and one (1) electronic copy on CD or flash drive of the *Price Proposal*.
- Two (2) originals and one (1) electronic copy on CD or flash drive of the *Administrative Proposal*.

A Proposal Checklist is located at the end of this RFP to assist Bidders in compilation of proposals. Note: The sealed, separate proposal packages may be submitted within one complete package for mailing.

A complete package (Technical, Price, and Administrative Proposals) must be received by the deadline in the schedule of dates in this RFP. Proposals should be sent to the following address:

Empire State Development  
633 Third Avenue, 35th Floor  
New York, New York 10017-8167  
Attention: Morgan Hammen  
RFP: Procurement Integrity Monitor

**Late proposals will not be considered for award.**

## **1. Technical Proposal**

Below is a listing of the technical information to be provided by the Bidder. No information is required beyond what is requested. The Corporation requests that all Technical Proposals be bound and organized with dividers identified to match the information requested below:

- A. Table of Contents
- B. Firm Experience and Qualifications
- C. Staff Experience and Qualifications
- D. Project Plan and Approach

The purpose of the Technical Proposal is to provide Bidders with an opportunity to demonstrate their qualifications, competence, and capacity to undertake the engagement described herein, in a manner which complies with applicable laws and regulations, and the requirements of the RFP. The Technical Proposal should specifically detail the Bidder's experience and qualifications in providing the services sought by the Corporation. There should be no dollar unit or costs included in the Technical Proposal document.

- A. Table of Contents

The Table of Contents should clearly identify the location of all material within the proposal by section and page number.

- B. Bidder Experience and Qualifications

In this section of the Technical Proposal, Bidders should demonstrate relevant experience by providing the following:

1. A summary of the Bidder's technical expertise that describes its specific capabilities. This narrative should discuss the Bidder's ability to provide successful and timely integrity monitoring services.
2. Include a listing of the types of government procurements that the Bidder has supported, either as an integrity monitor, process documentation / improvement, or other support. Please include a brief description of the procurement support provided.
3. A detailed description of the direct prior experience of the Bidder comparable to those services detailed in this RFP in the last five (5) years. The Bidder should detail three similar government design build engagements of actual projects that demonstrate the depth and breadth of the Bidder's expertise and experience. Examples that successfully demonstrate experience of this magnitude will be evaluated more favorably. Please indicate, for each procurement integrity monitoring project / report completed:
  - Name of client organization
  - Role of the Bidder
  - Type of client (e.g. government entity (local, State, Federal), private company etc.)
  - Project description
  - Project duration including start/end dates
  - Number of Bidder staff (FTEs) involved in the review
  - Value of procurement reviewed;
  - Procurement and project schedule, if applicable; and
  - Any other information regarding the project that would assist the Corporation in determining the success experienced by the client
4. The Bidder should include in the proposal reference for at least two (2) engagements described in 3 above. References should, if possible, be letters from actual clients, and should include:
  - Name of the Bidder
  - Name of the Client
  - Client business address
  - Client contact name and title
  - Client contact telephone number and email address
  - Brief description of the type and scope of services of the engagement
  - Engagement term start and end dates
  - Quality of work performed during the engagement (only include if a letter from an actual client)

Please note that if references are not provided by an actual client, the Corporation will try to contact the references. Inability to contact a reference provided by a Bidder will not be looked upon favorably and may result in a reduction of points during evaluation.

Information provided by references may be used by the Corporation for proposal evaluation purposes. The Corporation may seek additional information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFP, and the responsiveness of the Bidder to the client during the engagement. The Corporation reserves the right to deploy, at its sole discretion, a

variety of methods and communication approaches to contact references, depending on what the Corporation deems to be the most effective and efficient manner.

### C. Staff Experience and Qualifications

In this section of the Technical Proposal, Bidders should demonstrate that the staff proposed have the knowledge and ability to perform the services described in the RFP.

1. Bidders should identify the Principal, Project Manager, and other staff to be assigned to the engagement consistent with the role in the Price Proposal Form located at the end of this RFP. Please indicate the availability of the key person(s) (staff proposed in the Principal and Project Manager roles) for consultation with the Corporation, including but not limited to his or her ability to meet in New York, New York.
2. Supply a project organization chart, with names, showing the individuals to be assigned to the project with a specific indication of what role the individual will have on this project. The chart should include the role of each individual.
3. State all relevant information regarding the number, qualifications and experience of the staff to be specifically assigned to this engagement.
4. In an appendix of the Technical Proposal, please include resumes for all members of the consulting team, including subcontract personnel who are likely to work on the engagement.
5. The Bidder is asked to supply the Corporation with at least one (1) reference for the each proposed Principal and Project Manager, who can comment on the experience of the proposed staff. References should, if possible, be letters from actual clients, and should include:
  - Name of the Bidder
  - Staff Member Name and proposed role, as assigned in the Price Proposal Form
  - Name of the Client Firm / Company
  - Client business address
  - Client contact name and role
  - Brief description of the type and scope of services of the engagement
  - Engagement term start and end dates
  - Quality of work performed during the engagement (only include if a letter from an actual client)

Please note that if references are not provided by an actual client, the Corporation will try to contact the references. Inability to contact a reference provided by a Bidder will not be looked upon favorably and may result in a reduction of points during evaluation.

Information provided by references may be used for proposal evaluation purposes. The Corporation may seek additional information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFP, and the responsiveness of the Bidder to the client during the engagement.

#### D. Project Plan / Approach

In this section of the Technical Proposal, Bidders should demonstrate their competence and capacity to undertake the review of the Design Build procurement by providing the following:

Bidders should include in this section a narrative summarizing its proposed approach to managing this as well as a discussion of the Bidder's approach to project management

1. A proposed project plan describing the recommended technical approach for accomplishing the services described in this RFP. Information included in this section should demonstrate the Bidder's understanding of the effort, skills and process necessary for the successful completion of the project, including the specific knowledge of design build procurement that would be applied to the engagement.
2. A timeline of performing the review and report development should be provided.
3. A description of how the Bidder intends to utilize its personnel and manage its activities, including any work to be carried out by a subcontractor, during the engagement.
4. A list of anticipated deliverable items and estimated dates for those deliverables to be completed.
5. A plan for communication or periodic progress status updates to brief the Corporation on the status of the review, problems which may be identified, and upcoming activities engagement. This may include submittal of draft findings and / or process enhancement recommendations.
6. A narrative describing how the Bidders will assist the Corporation in monitoring the resolution of significant issues identified.

## 2. Price Proposal

Among the selection criteria is the fee the Bidder will charge the Corporation for the services described in this RFP. Proposals with a fee format different from the format indicated in Price Proposal Form will be deemed non-responsive and will not be considered for evaluation. All fees must be presented as a fixed United States dollar amount. An official authorized to contractually bind the prospective Bidder must sign the Price Proposal.

The Price Proposal is an integral component of a Bidder's submission. Bidders should take particular care to ensure the Price Proposal is completed fully and in complete accordance with the instructions. Bidders are advised to submit questions about or requests for clarification of the Price Proposal as a Bidder Inquiries.

The Price Proposal Form must be completed in its entirety according to the following instructions:

- The Price Proposal Form should include the not-to-exceed hourly rate for role described in the RFP. Please specify each person identified in the Technical Proposal Staff Qualifications and Experience section by name and identify his or her project role
- The Price Proposal should include the not-to-exceed hourly rate (U.S. dollars) for each proposed role. Do not leave blanks or enter a zero dollar amount for any rate.

- The Price proposal must include only one rate for role.
- Hourly fees shall be inclusive of personnel, travel, computer charges, postage and all other expenses.
- Payments to the selected Bidder will only be made for actual hours worked, and will not exceed the proposed hourly rate.

### 3. Administrative Proposal

Schedule A of this RFP states standard requirements that must be included in every contract entered into with the Corporation. The successful Bidder must agree to abide by these requirements and provide any information requested by the Corporation in connection with these requirements. Bidders should also complete and submit the administrative components listed below. Failure to submit any of the requirements below may result in the rejection of a Bidder's proposal.

1. Proposal Submission Cover Sheet (attached to this RFP), submit with proposal
2. [State Finance Law §§139-j and 139-k forms](#), submit with proposal
3. [Vendor Responsibility Questionnaire](#), submit with proposal or submit online
4. Iran Divestment Act Statement, included in Proposal Submission Cover Sheet
5. Non-Discrimination and Contractor & Supplier Diversity Requirements, submit with proposal
  - [OCSD-1 - MWBE Participation / EEO Policy Statement](#)
  - [OCSD-2 - Staffing Plan](#)
  - [OCSD-3 - Workforce Utilization Report](#)
  - [OCSD-3A - Workforce Utilization Report Instructions](#)
  - [OCD - Workforce Utilization Report - EEO SOC Classification Guide](#)
  - [OCSD-4 - MWBE Utilization Plan](#)
  - [OCSD-5 - MWBE Waiver Request Form](#)
6. [Encouraging the Use of NYS Businesses in Contract Performance Form](#), submit with proposal
7. [Diversity Practices Questionnaire](#), submit with proposal
8. [Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance](#), submit with proposal
9. Certification under State Tax Law Section 5-a [220-CA](#) or [Affidavit](#), submit with proposal
10. Schedule A, included in Proposal Submission Cover Sheet
11. Insurance Requirements, per Schedule A Article 8 and Appendix E, submit proof with proposal.

## VIII. QUESTIONS

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section in accordance with the schedule in Section V (Schedule of Dates) to [Integritymonitor@esd.ny.gov](mailto:Integritymonitor@esd.ny.gov). Questions will not be accepted orally and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted with this RFP.

## **IX. GENERAL PROVISIONS**

### **Reserved Rights**

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:

- Amend, modify or withdraw this RFP;
- Revise any requirement of this RFP;
- Require supplemental statements or information from any responsible party;
- Accept or reject any or all responses hereto;
- Extend the deadline for submission of responses hereto;
- Negotiate potential contract terms with any respondent to this RFP;
- Have discussions with any respondent to this RFP to correct and/or clarify responses which do not conform to the instructions contained herein;
- 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; and
- Extend the term of any agreement on terms consistent with this RFP.

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.

### **Required Approvals**

The awarded contract, if any, may be subject to review and approval by the Office of the State Comptroller ("OSC") pursuant to Public Authorities Law §2879-a and the regulations issued thereunder. Such OSC review and approval may be required of contracts or contract amendments over a certain dollar value 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 the awarded contract is subject to OSC review and approval, the contract shall not be valid and enforceable, nor shall the Corporation have any liability of any kind arising from or in connection with the contract, unless and until OSC approval has been received.

### **Performance**

The Contractor's performance will be assessed by the Corporation according to the achievement of The Contractor's contractual obligations in a timely and professional manner, as set forth in the resulting Contract. The Corporation will utilize progress reports and periodic

meetings to ensure that the project is carried out on a timely basis and results in effective recommendations and work products.

Contractor warrants that its services shall be performed in accordance with applicable professional standards and that the Contractor shall correct, at no charge to the Corporation, services which fail to meet applicable professional standards and which result in obvious or patent errors in the progression of its work.

### **Additional Services Requested**

The Corporation may, at any time, by written notice, make changes or additions to work or services within the general scope of the contract resulting from this RFP (not to include professional services requiring licenses or specialized expertise such as engineering, architectural, and environmental consulting, abatement, treatment, and testing work) for unanticipated needs. If any such change or addition causes an increase or decrease in the cost of, or in the time required for, performance of the contract, an equitable adjustment may be made in the price using the billing rates set forth in the contract, and the Contractor shall be notified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that the Corporation, if it decides that the facts justify such action, may receive and act upon such claim as asserted at any time. Nothing in this clause shall excuse the Contractor from proceeding with this contract as modified.

### **Contractor Staff**

Contractor staff assigned to work on this project shall be subject to approval by the Corporation. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. The Contractor should notify the Corporation of any proposed changes in staff immediately. The Corporation has an absolute right and discretion to approve or disapprove any proposed changes in staff. The Corporation, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld.

The Contractor specifically represents and agrees that its members, officers, employees, agents, servants, consultants, shareholders, and subcontractors have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder.

The Agreement resulting from this RFP is intended to secure the professional services of the Contractor because of its ability and shall not be assigned, conveyed, transferred, or disposed of by the Contractor.

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the State Project Manager. Approval shall not be unreasonably withheld upon receipt of written request to subcontract. All employees of the Contractor, or of its Subcontractors, who shall perform Services under this contract, shall

possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Services under this Agreement on behalf of Contractor shall, in performing the Services, comply with all applicable Federal and State laws concerning employment in the United States.

## **X. PROCUREMENT FORMS AND REQUIREMENTS**

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be executed and should be included in the administrative proposal.

1. State Finance Law §§139-j and 139-k forms
2. Vendor Responsibility Questionnaire
3. Iran Divestment Act Statement
4. Non-Discrimination and Contractor & Supplier Diversity Requirements
5. Encouraging the Use of NYS Businesses in Contract Performance Form
6. Certification under State Tax Law Section 5-a
7. Schedule A (for review only—no separate form requirement)
8. Project Sunlight (for review only—no separate form requirement)
9. Insurance Requirements

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

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 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 identified on the cover of this RFP; the completion by Respondents of the Offerer Disclosure of Prior Non-Responsibility Determinations, and the Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law (each form is accessible at the Required Forms for Vendors link at the ESDC web site under “RFPs/RFQs”); and 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 pursuant to State Finance Law as part of their submittal. Copies of these forms are available at:

[http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF\\_Law139JK.pdf](http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139JK.pdf).

The Procurement Requirements also require ESD staff to obtain and report certain information when contacted by prospective respondents during the Restricted Period, make a determination of the responsibility of Respondents and make all such information publicly available in accordance with applicable law. If a prospective respondent is found to have knowingly and willfully violated the State Finance Law provisions, that prospective respondent and its subsidiaries, related or successor entities will be determined to be a non-responsible Respondent 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. The designated contact account for this solicitation is referenced on the cover of this RFP

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/Data/RFPs/RequiredForms/PermissibleContactsPolicyJan2007.pdf>. All potential Respondents are solely responsible for full compliance with the Procurement Requirements. Both the prime consultant and any sub-consultants complete the forms required above.

## **2. Vendor Responsibility Questionnaire**

All Respondents to this RFP must be “responsible,” which in this context means that they must have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP, and in addition must demonstrate that both the Respondent and its principals have and will maintain the level of integrity needed to contract with New York State entities such as ESD. Further, the Respondent must show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between ESD and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of the contract, that ESD may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that ESD may terminate the contract based on a determination that the contracting party is non-responsible. On request, model language to this effect will be provided to any Respondent to this RFP.

To assist in the determination of responsibility, ESD requires that all respondents to this RFP register in the State's Vendor Responsibility System (“Vend-Rep System”). The Vend-Rep 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. Respondents are to file the required Vendor Responsibility Questionnaire online via the Vend-Rep System or may choose to complete and submit a paper questionnaire. Please include a copy of your Vend-Rep submission receipt or paper questionnaire with your proposal.

To enroll in and use the Vend-Rep System, see the System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the Vend-Rep system online at <https://portal.osc.state.ny.us>. For direct Vend-Rep System user assistance, the Office of the State Comptroller's Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

Respondents opting to file a paper questionnaire can obtain the appropriate questionnaire from the Vend-Rep website ([http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm)) and execute accordingly pertaining to the company's trade industry. Per the website, respondents are to "Select the questionnaire which best matches the business type (either For-Profit or Not-For-Profit) and business activity (Construction or Other)."

### **3. Iran Divestment Act**

Every Proposal made to ESD pursuant to a competitive solicitation must contain the following statement, signed by the 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. For further information and to view this list please go to: <http://www.ogs.ny.gov/about/regs/ida.asp>

### **4. Non-Discrimination and Contractor & Supplier Diversity 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 and 5 NYCRR §§140-145 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 (“MWBE”) 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 MWBE 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 minority- and women–owned business enterprises (“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 solicitation, ESD hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State certified minority-owned business enterprises (“MBE”) participation and 15% for New York State certified women-owned business enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). A contractor (“Contractor”) on the subject contract (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that ESD may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. 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 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 demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting ESD’s Office of Contractor and Supplier Diversity at [OCSD@esd.ny.gov](mailto:OCSD@esd.ny.gov). Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder’s MWBE requirements please see the attached MWBE guidance, “Your MWBE Utilization and Reporting Responsibilities Under Article 15-A.”

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

1. An MWBE Utilization Plan, Form OCSD-4, 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.

ESD will review the submitted MWBE Utilization Plan and advise the Bidder of ESD's acceptance or issue a notice of deficiency within 30 days of receipt.

2. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to Empire State Development, Office of Contractor and Supplier Diversity, 633 Third Avenue, New York, NY 10017, OCSD@esd.ny.gov, 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. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

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.

The Contractor will be required to 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.

The Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor 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, the Bidder/Contractor agrees with all of the terms and conditions of Schedule A – Conditions Applicable to the Corporation's Agreements for Services/Materials including Clause 5.4 – Non-Discrimination and Contractor & Supplier Diversity. 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, 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.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement, Form OCSD-1, to OCSD with their bid or proposal.

To ensure compliance with this Section, the Bidder will be required to submit with the bid or proposal an Equal Employment Opportunity Staffing Plan, Form OCSD-2, identifying the anticipated work force to be utilized on the Contract. If awarded a Contract, Bidder shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, Form OCSD-3, in such format as shall be required by ESD on a quarterly basis during the term of the contract.

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.

The required forms can be found at the following web addresses:

Form OCSD-1:

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_1MWBEEEOPolicyStatement.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_1MWBEEEOPolicyStatement.pdf)

Form OCSD-2: [http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_2StaffingPlan.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf)

Form OCSD-3:

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_WorkforceUtilizationReport.xlsx](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_WorkforceUtilizationReport.xlsx)

Form OCSD-4:

[http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD\\_4MWBEUtilizationPlan.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_4MWBEUtilizationPlan.pdf)

In the event that the above links are unavailable or inactive, the forms may also be requested from OCSD at [OCSD@esd.ny.gov](mailto:OCSD@esd.ny.gov).

## Diversity Practices

ESD has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Respondents is practical, feasible, and appropriate. Accordingly, respondents shall be required to include as part of their response to this procurement the [Diversity Practices Questionnaire](#).

## SERVICE-DISABLED VETERAN-OWNED BUSINESS (“SDVOB”) PARTICIPATION

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at:

[http://ogs.ny.gov/Core/docs/CertifiedNYS\\_SDVOB.pdf](http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf)

Bidders/Proposers need to be aware that all authorized users of this contract will be strongly encouraged to the maximum extent practical and consistent with legal requirements of the State Finance Law and the Executive Law to use responsible and responsive SDVOBs in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses consistent with current State law.

For purposes of this procurement, ESD hereby establishes a goal of 3% for SDVOBs, based on the current availability of qualified SDVOBs. The Contractor must document good faith efforts to provide meaningful participation by SDVOBs in the performance of the Contract.

A copy of each Bidders/Proposers SDVOB Contract Performance Use form proposing specific certified firms to be utilized or industries where SDVOB firms shall be sought is to be included as part of the response to this RFP. A copy of the aforementioned form is available at:

<http://esd.ny.gov/CorporateInformation/Data/RFPs/SDVOBContractPerformanceUse.pdf>

General inquiries or questions relating to aforementioned policies, SDVOB participation and the goals specified herein may be addressed to OCSD at [OCSD@esd.ny.gov](mailto:OCSD@esd.ny.gov).

## **5. Encouraging the Use of NYS Businesses in Contract Performance Form**

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. In order for ESD to assess the use of New York State businesses in each Proposal, ESD requests that each Respondent complete the Encouraging Use of New York State Businesses in Contract Performance form, accessible here:

<http://esd.ny.gov/CorporateInformation/Data/ENCOURAGINGUSEOFNEWYORKSTATEBUSINESSESINCONTRACTPERFORMANCE.pdf>.

## **6. Certification under 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 Proposals a properly completed Form ST-220-CA ([http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)), or an affidavit

([http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL\\_5A\\_Affidavit.pdf](http://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/STL_5A_Affidavit.pdf))

that the Respondent is not required to be registered with the State Department of Taxation and Finance. 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.

## **7. Schedule A**

Following final selection of a Respondent, ESD will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with "Schedule A," which can be found at:

<http://esd.ny.gov/CorporateInformation/Data/ScheduleA.pdf>

Please note Respondents do not need to complete the entire Schedule A with the submission of their Proposal. However, Respondents should still review these terms, which are standard in all ESD contracts, and raise any concerns present prior to submission of their Proposal, as Respondents will need to accept these terms prior to contract execution.

## **8. Project Sunlight**

This procurement is subject to the Public Integrity Reform Act of 2011. 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.

## **9. Insurance Requirements**

The selected Respondent will be required to provide insurance in accordance with the requirements described in Article 8 of Schedule A. See section 7 above for a link to Schedule A.

## Proposal Submission Cover Sheet

Please Note: A “No” response to below questions three, four, five or nine (3, 4, 5, or 9) may be grounds for disqualification from this procurement.

RFP Name:				
Proposal Date:				
1	Information Regarding the Proposer's Bidder:	Company Name:		
		Street Address:		
		City / State/ Zip:		
		Phone:		
		Taxpayer ID:		
		Website:		
2	Primary Contact Concerning this Proposal:	Name:		
		Title:		
		Street Address:		
		City / State/ Zip:		
		Phone:		
		Email:		
3	Irrevocable Offer:	The rates quoted are an irrevocable offer that is good through the execution of a contract.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4	Proposer Guarantees:	<ul style="list-style-type: none"> <li>Bidder certifies it can and will provide and make available, as a minimum, all services set forth in the RFP.</li> <li>Bidder has read the RFP and Schedule A and agrees that the rights and prerogatives as detailed therein are retained by the Corporation</li> <li>Bidder agrees to be bound by the Contractual Requirements found in the RFP.</li> </ul>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5	Proposer Warranties:	<ul style="list-style-type: none"> <li>Proposer warrants that it is willing and able to comply with New York laws with respect to foreign (non-New York) corporations.</li> <li>Proposer warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof.</li> <li>Proposer warrants that it will not delegate or subcontract its responsibilities under an agreement without the written permission of the Corporation.</li> <li>Proposer warrants that all information provided by it in connection with this proposal is true and accurate.</li> </ul>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6	M/WBE Status:	Is Proposer a New York State Certified Minority-owned Business?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		Is Proposer a New York State Certified Women-owned Business?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7	SBE Status:	Is Proposer a Small Business as defined in New York State Executive Law Section 310(20)? By indicating yes, Proposer certifies that it meets the criteria as defined in New York State Executive Law Section 310(20).	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8	SDVBE Status:	Is Proposer a New York State Certified Service-Disabled Veteran-owned Business?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9	Iran Divestment Act	Bidder 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 ( <a href="http://www.ogs.ny.gov/about/regs/ida.asp">http://www.ogs.ny.gov/about/regs/ida.asp</a> ) created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

# Price Proposal Form

Request for Proposals: Javits Center Expansion Design Build Procurement Integrity Monitor

**Bidder Name:** \_\_\_\_\_

## Fee Schedule

Project Role	Name(s)	Not-to-Exceed Hourly Rate (US\$) <b>One rate per role</b>
<b>Principal:</b> The Principal will have overall responsibility for the performance of the project. The Principal should be an executive within the Bidder's company and have significant experience in similar government projects.		
<b>Project Manager:</b> The Project Manager will coordinate and delegate assignments to the Bidder's project team and serve as point of contact with the Corporation regarding project status, issues, meetings and deliverables. The Project Manager should also have significant experience in similar government projects with alternative procurement methods such as design build.		
<b>Procurement Attorney:</b> The Procurement Attorney will be a legal advisor to the Bidder's project team. The Procurement Attorney must be admitted to the New York State bar and should have experience in similar government projects with alternative procurement methods such as design build.		
<b>Lead Procurement Specialist:</b> The Lead Procurement Specialist will be a senior level procurement professional on the Bidder's project team and will have day-to-day oversight of the procurement specialists. The Lead Procurement Specialist should have government procurement experience.		
<b>Procurement Specialist:</b> The Procurement Specialist will observe and document the design build process. The Procurement Specialist should have procurement experience.		

Please note that hourly rates are inclusive of travel and expenses. All meetings will be held in New York City. In person attendance by the project team will be expected, except in limited circumstances agreed to by the Corporation.

\_\_\_\_\_  
Authorized Signatory for the Bidder

\_\_\_\_\_  
Name (print or type)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# Proposal Checklist

Request for Proposals: Javits Center Expansion Design Build Procurement Integrity Monitor

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Bidder Name	Date
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**Technical Proposal (2 original, 4 hardcopies and 1 electronic in word or searchable pdf submitted on a CD or flash drive)**

- |    |   |     |       |    |       |
|----|---|-----|-------|----|-------|
| 1. | Does the proposal contain 2 originals, 4 hardcopies and 1 electronic of the Technical Proposal?                       | Yes | _____ | No | _____ |
| 2. | Does the proposal contain all components of the Technical Proposal, as stated below?                                  |     |       |    |       |
| A. | <b>Table of Contents</b>  | Yes | _____ | No | _____ |
| B. | <b>Bidder Experience and Qualifications</b>   | Yes | _____ | No | _____ |
|    | Summary of the technical expertise  | Yes | _____ | No | _____ |
|    | List of government procurement types that the Bidder has supported  | Yes | _____ | No | _____ |
|    | Detailed description of the direct prior experience (3 projects) in the last 5 years                                  | Yes | _____ | No | _____ |
|    | Two reference letters   | Yes | _____ | No | _____ |
| C. | <b>Staff Experience and Qualifications</b>  | Yes | _____ | No | _____ |
|    | List of proposed staff by role described in price proposal form   | Yes | _____ | No | _____ |
|    | Project organization chart  | Yes | _____ | No | _____ |
|    | Qualifications of proposed staff  | Yes | _____ | No | _____ |
|    | Resumes for proposed staff  | Yes | _____ | No | _____ |
|    | Once reference letter for each proposed staff in Principal or Project Manager role                                    | Yes | _____ | No | _____ |
| D. | <b>Project Plan / Approach</b>  | Yes | _____ | No | _____ |
|    | Proposed Project Plan   | Yes | _____ | No | _____ |
|    | Timeline  | Yes | _____ | No | _____ |
|    | Description of how personnel and subcontractors will be managed   | Yes | _____ | No | _____ |
|    | A plan for communication or periodic progress / status updates  | Yes | _____ | No | _____ |
|    | A narrative describing how the Bidders will assist the Corporation in monitoring the resolution of significant issues | Yes | _____ | No | _____ |

**Price Proposal (2 originals and 1 electronic copy submitted on a CD or flash drive)**

- |    |   |     |       |    |       |
|----|---|-----|-------|----|-------|
| 1. | Does the proposal contain 2 originals and 1 electronic of the Price Proposal? | Yes | _____ | No | _____ |
| 2. | Did the Bidder complete and sign Price Proposal Form?                         | Yes | _____ | No | _____ |

**Administrative Proposal (2 originals and 1 electronic copy submitted on a CD or flash drive)**

- |   |     |       |    |       |
|---|-----|-------|----|-------|
| 1. Does the proposal contain 2 originals and 1 electronic of the Administrative Proposal? | Yes | _____ | No | _____ |
| 2. Did the Bidder submit executed copies of:  |     |       |    |       |
| Proposal Submission Cover Sheet   | Yes | _____ | No | _____ |
| State Finance Law 139-j and 139-k forms   | Yes | _____ | No | _____ |
| Vendor responsibility Questionnaire (submit with proposal or online)                      | Yes | _____ | No | _____ |
| OSCD-1 MWBE Participation / EEO Policy Statement  | Yes | _____ | No | _____ |
| OCSD-2 Staffing Plan  | Yes | _____ | No | _____ |
| OCSD-3 Workforce Utilization Report   | Yes | _____ | No | _____ |
| OCSD-3A Workforce Utilization Report Instructions   | Yes | _____ | No | _____ |
| OCSD-4 MWBE Utilization Plan  | Yes | _____ | No | _____ |
| OCSD-5 MWBE Waiver Request Form   | Yes | _____ | No | _____ |
| Encouraging the use of NYS Businesses in Contract Performance Form                        | Yes | _____ | No | _____ |
| Diversity Practices Questionnaire   | Yes | _____ | No | _____ |
| Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance        | Yes | _____ | No | _____ |
| Certification under State Tax Law Section 5-a   | Yes | _____ | No | _____ |
| Insurance requirements per Schedule A, Article 8 and Appendix E                           | Yes | _____ | No | _____ |

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