

**EMPIRE STATE DEVELOPMENT**  
**REQUEST FOR QUALIFICATIONS**

May 20, 2013

**PRE-QUALIFIED LIST OF REAL ESTATE DEVELOPMENT AND PLANNING RELATED CONSULTANTS FOR  
ON-CALL SERVICES**

**BACKGROUND:**

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

**PURPOSE**

The purpose of this solicitation is to pre-qualify individuals and/or firms (collectively, “firms”) with demonstrable experience in real estate development, planning and related services as eligible to represent ESD, its subsidiaries and/or affiliates, from time to time, in connection with economic development projects and related activities across New York State involving various public and private sector parties. Firms will be eligible for retainer needs that may arise during the next 4 years beginning on or about June 2013.

**REQUESTED SERVICES:**

ESD is seeking proposals from firms, large and small, that have demonstrable expertise in one or more of the following practice areas:

1. Land use and zoning analysis
2. Market and financial feasibility studies
3. Urban design and master planning
4. Historic preservation and adaptive reuse
5. Transportation planning and traffic analysis
6. Community outreach and engagement
7. Environmental assessment under the State Environmental Quality Review Act (“SEQRA”)
8. Phase 1 Environmental Site Assessments
9. Construction Cost Estimating

## 10. Civil, Mechanical and Structural Engineering

The specific services under these practice areas may include, but are not limited to: economic and financial analysis, developer solicitation, development advisory services, site planning, design guidelines, building conditions surveys, traffic impact studies, environmental assessments, environmental impact statements, and owner's representative services.

ESD is committed to pre-qualifying a diverse group of New York-based firms that will provide high-quality services and that are dedicated to diversity and to containing costs. ESD strongly encourages firms that are certified by New York State as minority- and women-owned business enterprises ("MWBE"), as well as firms that are not yet certified, but have applied for or are eligible for certification, to submit responses to this RFQ.

Note that inclusion on the pre-qualified real estate development and planning related services consultant list does not mean or imply that any firm will in fact be selected or engaged to provide these services to ESD, its subsidiaries or affiliates. Such selection and engagement will take place only when a need for these services arises, and will be subject to all requisite approval processes. The purpose of the pre-qualified list is to procure these consultant services for engagement on short notice.

This RFQ is not open to law firms and their practices in these areas. ESD has an existing pre-qualified list of law firms from which it retains legal services for these purposes.

### **REQUIRED INFORMATION:**

Please provide the following information in the same order in which it is requested. Responses must be limited to 25 pages, at least 12 point type with standard margins printed on one-sided 8 ½ X 11 inch pages, either bound or contained in a binder. In the event that a respondent is applying for qualification in multiple practice areas and may require more than the 25 page limitation to effectively respond, ESD will accept up to no more than 50 pages for multiple practice areas regardless of number.

1. Indicate which of the above ten listed real estate development or planning related practice areas you would like to be considered for and provide a description of relevant experience for each practice area.
2. For each practice area you would like to be considered for, provide at least three references with contact information, and a statement of rates, costs and expenses.
3. Provide evidence of public sector experience. Such experience is preferred but not required. If interested respondents have represented ESD or its subsidiaries in the last 5 years, contact persons should be identified.
4. For each practice area you would like to be considered for, provide the names of the firm's principals and other key staff who would be responsible for ESD's matters, and a description of the relevant qualifications and experience of each.

5. If respondent is a State-certified MWBE firm, please provide documentation evidencing registration. For respondents that are not certified but have applied for certification, please provide evidence of filing, including the filing date.
6. Provide a description of the instances, if any, in which you have worked with MWBE firms on previous transactions by engaging in joint ventures or other partnering or subcontracting arrangements. Responses should include the nature of the engagement, how such arrangement was structured and a description of how the services and fees were allocated.
7. Include background information such as: number and category of professional staff, location of all offices, telephone number and e-mail address of the primary staff personnel who are anticipated to provide services to ESD, resumes and organizational charts.

**CRITERIA FOR SELECTION:**

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

1. Relevant experience.
2. The general qualifications and experience of the staff proposed to be assigned to the ESD engagement.
3. Diversity and commitment to equal opportunity programs and firm's status as a MWBE.
4. Anticipated cost of services and willingness to work with ESD to minimize costs.
5. Overall organization, completeness, and quality of proposal, including cohesiveness, clarity of response and demonstrated understanding of ESD.

**REQUIRED PROCUREMENT FORMS:**

The following required procurement forms for this RFQ are described below. They must be executed and included in the submission in the same order as listed below:

- State Finance Law §§139-j and 139-k Forms;
- New York State Vendor Responsibility Questionnaire For-Profit Business Entity; and
- Iran Divestment Act Statement

In addition, Responses will be subject to Project Sunlight as described below.

State Finance Law §§139-j and 139-k

State Finance Law §§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 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;

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 ESD 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\\_Law139\\_JK.pdf](http://www.empire.state.ny.us/CorporateInformation/Data/RFPs/RequiredForms/SF_Law139_JK.pdf)

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.

**The designated contact person for this solicitation is Alexis Offen, Vice President, Real Estate Development, ESD, 633 Third Avenue, New York, NY 10017-8109. All comments and questions must be sent to her by email at [ESDConsultantRFQ@esd.ny.gov](mailto:ESDConsultantRFQ@esd.ny.gov).**

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://www.empire.state.ny.us/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.

#### Vendor Responsibility

All respondents to this RFP must be "responsible," which in this context means that it 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 designated chosen respondent to this RFP, 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 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 VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep 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 VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep 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).

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at [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.

#### 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.

#### Project Sunlight

Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ESD by a person (also broadly defined) for the purposes of procuring a state contract for services 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.

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

#### New York State Law

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation to promote opportunities for maximum feasible participation of certified MWBEs, and the employment of minority group members and women in the performance of ESD contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of MWBEs in state

procurement contracting versus the number of MWBEs that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the 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 MWBEs and the employment of minority groups members and women in the performance of New York State contracts.

#### Business Participation Opportunities for MWBEs

ESD has established an overall goal of 23% for MWBE participation for the Consultant Services performed under contracts awarded pursuant to this RFQ: 13% for Minority-Owned Business Enterprises (“MBE”) participation and 10% for Women-Owned Business Enterprises (“WBE”). The above goals are subject to review and amendment by the Office of Contractor & Supplier Diversity with respect to each related future contract or other procurement.

Firms that are not MWBEs responding to this RFQ are strongly encouraged to consider partnering, or other joint venture arrangements, with other certified MWBE Consultant Service provider firms to achieve the prescribed goals and to give MWBE Consultant Service provider firms the opportunity to participate in the Consultant Services performed under contracts to be awarded to pre-qualified providers by ESD. ESD also reserves the right to require firms selected as pre-qualified Consultant Service providers to work as partners on specific transactions or matters with other MWBE firms and allocate work in a manner that ensures that MWBE Consultant Service providers are assigned to substantive tasks and receive appropriate credit and compensation for the Consultant Services.

Note that, under Executive Law Article 15-A, firms must document good faith efforts to provide meaningful participation by MWBE firms as service providers. Willful and/or intentional violation of this obligation may result in the imposition of liquidated damages or other appropriate sanctions, including, without limitation, suspension of any future contracts with ESD and monetary payments based on the MWBE goal shortfall.

The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/>

Further, the ESD Office of Contractor & Supplier Diversity (“OCSD”) is available to assist respondents in identifying New York State certified MWBEs that can provide Consultant Services in connection with this RFQ. If you require MWBE listings, please call the OCSD at (212) 803-3225. Calls placed to OCSD for the aforementioned purposes will not be considered a prohibited lobbying contact.

#### **INSURANCE REQUIREMENTS**

Please note that upon selection for this Project, the Applicant will be required to demonstrate/provide the following insurance coverage:

- Commercial General Liability insurance - \$1 million per occurrence / \$2 million aggregate.
- Auto Liability insurance - \$1 million per occurrence / \$1 million aggregate.

- Must show evidence of Worker's Compensation & Employer's Liability insurance at State statutory limits.
- Must show evidence of Disability insurance coverage at State statutory limits.
- Professional Liability (Errors & Omissions) Insurance of \$1 million.
- The NYS Urban Development Corporation d/b/a Empire State Development must be named as additional insureds on a primary and non-contributory basis on all of the following policies: Commercial General Liability & Auto Liability. All policies listed above should include a waiver of subrogation in favor of NYS UDC d/b/a ESD.

#### **QUESTIONS ABOUT THIS RFQ:**

All questions must be sent by email to [ESDConsultantRFQ@esd.ny.gov](mailto:ESDConsultantRFQ@esd.ny.gov).

Responses to all questions of a substantive nature relating to this RFQ will be provided in writing, via ESD's website (<http://esd.ny.gov/CorporateInformation/RFPs.html>). In addition, any changes, additions or deletions to this RFQ will also be posted on ESD's website, along with the electronic version of this RFQ. Respondents should note that any necessary clarification must be sought by the deadline for questions set forth in the "Key Events/Dates" section of this RFQ. Respondents are urged to check ESD's web site frequently for notices of any clarification of or changes, additions or deletions to the RFQ.

OTHER THAN THE CONTACT PERSON IDENTIFIED ABOVE, PROSPECTIVE RESPONDENTS SHALL NOT APPROACH ESD'S EMPLOYEES DURING THE RESTRICTED PERIOD OF THIS RFQ PROCESS ABOUT ANY MATTERS RELATED TO THIS RFQ OR ANY QUALIFICATIONS SUBMITTED PURSUANT THERETO.

#### **GENERAL PROVISIONS:**

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

#### **KEY EVENTS/DATES AND PLACE OF SUBMISSION**

Issuance of RFQ: May 20, 2013  
 Deadline for RFQ Questions: May 30, 2013  
 Deadline for ESD Responses to RFQ Questions: June 6, 2013  
 RFQ Response Due Date: **2 pm, June 12, 2013**  
 Notification of Pre-Qualified List Selection: Fall 2013

**Written proposals should be sent to Ms. Alexis Offen, Vice President, Real Estate Development, Empire State Development, 633 Third Avenue, New York, NY 10017-8109, Attn: Development and Planning RFQ and must be received by ESD by 2:00 pm on June 12, 2013. Electronic submissions will not be accepted. Include 5 copies of the required submissions, and one on disk (pdf format preferred).**

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

