

FOR CONSIDERATION

November 21, 2011

TO: The Directors

FROM: Kenneth Adams

SUBJECT: Procurement of Independent Accounting/Auditing Services

REQUEST FOR: Authorization to Appoint Independent Accountants and enter into a Four Year Contract with Toski, Schaefer & Co., P.C. and Take Related Actions

I. Contract Summary

Contractor: Toski, Schaefer & Co., P.C.

Scope of Services: Audits for New York State Urban Development Corporation d/b/a Empire State Development and Subsidiaries, New York Job Development Authority, Harlem Community Development Corporation, New York Convention Center Development Corporation, New York Empowerment Zone Corporation, and a Federal Single Audit (required of recipients of federal funding).

Contract Term: Four Years

Contract Amount: Not to exceed \$910,000

Funding Source(s): Corporate Cash

II. Background

As a component unit of the State of New York, New York State Urban Development Corporation d/b/a Empire State Development, its subsidiaries and the New York Job Development Authority are required to conduct an annual independent audit of its consolidated financial statements, including the consolidated balance sheets, statements of revenue, expenses and changes in net assets and cash flows. The audit must be conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Governmental Auditing Standards, issued by the Comptroller General of the United States.

III. Contractor Selection Process

Toski, Schaefer & Co., P.C. (Toski) has served as independent accountants to Empire State Development (ESD) for the last four fiscal years. In anticipation of the end of their four-year term, an advertisement was placed in the NYS Contract Reporter on August 15, 2011 and a new Request for Proposals was issued and posted on the ESD website. Eight proposals were received from the following firms (including cost of services):

Toski, Schaefer & Co., P.C.	\$220,000 for fiscal year 2012 with annual increases of 2%
UHY LLP	\$238,525 for fiscal year 2012 with annual increases of 0% to 7%
Mitchell & Titus	\$240,000 for fiscal year 2012 with annual increases of 2.5%
Lumsden & McCormick, LLP	\$300,000 for fiscal year 2012 with annual increases of 2%
Israeloff, Trattner & Co., P.C.	\$330,000 for fiscal year 2012 with annual increases of 3%
Fust Charles Chambers LLP	\$335,000 for fiscal year 2012 with annual increases of 3%
Grant Thornton	\$339,500 for fiscal year 2012 with annual increases of 3%
KPMG	\$390,000 for fiscal year 2012 with annual increases of 0% to 3%

A review committee comprised of the Chief Financial and Administrative Officer, senior managers in the finance department and the Senior Vice President of Internal Audit evaluated the proposals based on predetermined criteria enumerated in the RFP, including: experience with public entities (including ESD), qualifications of the firm, the audit team and the partners, financial strength and stability of the firm and staff, commitment of time and resources to ESD, and cost of services.

The review committee presented its recommendation to senior management and the audit committee and, with their concurrence, recommends Toski be reappointed as ESD's independent accountants. In addition to receiving a high overall ranking by the committee based on the predetermined criteria, the firm has submitted the lowest bid, has experience with ESD and an understanding of the complexities of the organization, has professionally and successfully assisted ESD in the timely filing of independent audit reports to the Office of the State Comptroller and has worked as a partner in financial matters for the last four years.

Toski has utilized the services of minority and women-owned businesses in each year of its previous contract at the level required by ESD or greater and has committed to a twenty percent (20%) participation for the new contract period.

Pursuant to State Finance Law Section 139-j and 139-k and the Corporation's policy related thereto, staff has; a) considered proposed contractor's ability to perform the services provided for in the proposed contract; and b) consulted the list of offerers determined to be non-responsible bidders and debarred offerers maintained by the New York State Office of General Services. Based on the foregoing, staff considers the proposed contractor to be responsible.

IV. Scope of Work

Toski will conduct independent audits for New York State Urban Development Corporation d/b/a Empire State Development, its subsidiaries, Harlem Community Development Corporation, New York Convention Center Development Corporation and New York Empowerment Zone Corporation and the New York Job Development Authority, and a Federal Single Audit (required of recipients of federal funding).

V. Contract Term, Price and Funding

The contract term is four years in an amount not to exceed nine hundred ten thousand dollars (\$910,000) which is funded from Corporate cash. The firm will bill in three installments, the first upon receipt of draft audit reports for approximately more than fifty percent of the annual contract amount, and the other two upon completion of the audit and other required reports.

VI. Non-Discrimination/Affirmative Action

ESD's Non-discrimination and Affirmative Action policy will apply. Toski, Schaefer & Co., P.C. shall be required to use good faith efforts to achieve a Minority-Owned Business Enterprises participation goal of 15% and a Women-Owned Business Enterprise participation goal of 5%. The above-mentioned contract goals shall be a percentage of the total amount of this contract, including all expenditures made hereunder, including but not limited to, purchase orders, invoices and other payments made in the performance of this contract.

VII. Environmental Review

ESD staff has determined that the authorization to enter into a contract for independent accounting services constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental Conservation. No further environmental review is required in connection with the authorization.

VIII. Requested Action

The Directors are requested to (1) make a determination of responsibility with respect to the proposed contractor; (2) authorize the Corporation to enter into a contract with Toski, Schaefer & Co., P.C. for an amount not to exceed \$910,000.

IX. Recommendation

Based on the foregoing, I recommend approval of the requested actions.

XI. Attachments

Resolution

November 21, 2011

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Authorization to Enter Into a Contract with Toski, Schaefer & Co., P.C. to Provide Independent Accounting/Audit Services and to Take Related Actions

BE IT RESOLVED, that upon the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation hereby finds Toski, Schaefer & Co., P.C. to be responsible; and be it further

RESOLVED, that the Corporation is hereby authorized to enter into a contract with Toski, Schaefer & Co., P.C. in an amount not to exceed Nine Hundred Ten Thousand Dollars (\$910,000) for the purposes and services, and substantially on the terms and conditions, set forth in the Materials; and be it further

RESOLVED, that the President of the Corporation or his designee be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

* * *