

**REQUEST FOR PROPOSAL TO SERVE
EMPIRE STATE DEVELOPMENT AS ARBITRAGE COMPLIANCE CONSULTANT**

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1.0 Introduction

The New York State Urban Development Corporation ("UDC") and the New York Job Development Authority ("JDA"), both doing business as Empire State Development ("ESD" or "the Corporation"), seek qualified firms to provide arbitrage compliance and related services to these two public benefit corporations. In each case the terms of the contract will be for a four year period with an ESD option to extend for an additional two year period.

2.0 Background of ESD

ESD is New York State's primary economic development agency. The Corporation is led by Chairperson Julie Shimer, with Kenneth Adams serving as President and Chief Executive Officer.

As an agency of the State, constituting a political subdivision and a public benefit corporation, ESD is tasked with providing the highest level of assistance and service to businesses in order to encourage economic investment and prosperity in New York State. In particular, it is engaged in three principal activities:

- Economic and real estate development involving civic, commercial, high technology and industrial development projects
- State-supported special project financing
- Monitoring and loan servicing of residential and non-residential mortgages

ESD works closely with businesses to identify creative solutions to challenging problems and generate enhanced opportunities for growth.

To assist the Corporation in attaining its goals, the State Legislature has provided the Corporation with various statutory powers. Among these is the power to issue bonds; offer tax benefits to developers; and condemn real property and waive compliance, where appropriate, with certain local codes and laws. In addition, the Corporation provides financial assistance through tax credits and grants; low cost project financing, including loans and interest subsidy grants; and technical assistance in management, finance and project design.

ESD has undertaken, developed and constructed many significant projects over the past 43 years and continues to advance large ongoing projects through its subsidiaries. ESD's subsidiaries are primarily involved in real estate development; some of these include Erie Canal Harbor Development Corporation, Harlem Community Development Corporation, Harriman Research and Technology Development Corporation, and USA Niagara Development Corporation. It is possible that the Corporation may issue bonds in connection with one or more of these subsidiaries.

ESD is one of five statewide entities that are empowered to issue State-supported debt through the Personal Income Tax (“PIT”) Revenue Bond Program. Recent changes to the PIT legislation authorizes ESD to issue bonds for any of the other four state entities authorized to issue PIT bonds. In addition to the periodic issuance of State-supported debt through the Personal Income Tax Revenue Bond Program and Service Contract Revenue Bond Program, ESD is currently authorized to issue bonds and undertake related actions for the following programs and purposes, including but not limited to:

- UDC Corporate Purpose Bonds
- Job Development Authority (JDA) Special Purpose Bonds
- JDA Commercial Paper Program
- Refundings for both UDC and JDA

Additional programs will be financed with bonds by the Corporation during this period as required in the State’s capital plan and/or as needed by the Corporation.

A comprehensive description of ESD may be found in the Official Statement of the Corporation’s State Personal Income Tax Revenue Bonds, Series 2011 A & B issued on December 21, 2011. JDA’s description can be found in the Official Statement of its bonds issued April 21, 2004.

Annual continuing disclosure statements including the Corporation’s financial statements are available through the Municipal Securities Rulemaking Board (www.emma.msrb.org). Additional information regarding ESD is available on its web site (www.esd.ny.gov). A summary of ESD's Bond Program with a detailed description of bonds outstanding as of March 31, 2011 can also be found on our website.

3.0 Scope of Service

The successful responder shall provide, as necessary, but not be limited to, the following:

- 3.1 Track outstanding bond issues (for ESD, subsidiaries and JDA) to assess which ones will have upcoming reporting requirements and will need to be evaluated to determine arbitrage compliance requirements. Collect data from trustees or banks, reviewing any special elections and determine bond year and relevant IRS filing dates. Two of our bond series were issued as Build America Bonds.
- 3.2 Calculate bond yields.
- 3.3 Calculate the excess investment earnings, if any, required to be rebated to the Federal Government within the legally permitted time period.
- 3.4 As appropriate, calculate any yield reduction amount on any funds that are yield restricted.
- 3.5 Provide to the ESD a periodic report identifying the amount of arbitrage.

- 3.6 Review, analyze and calculate transferred proceeds, as necessary, on ESD bond issues using applicable regulations.
- 3.7 Advise as to the impact of any swap transactions on arbitrage calculations and any rebate obligation. ESD currently has 5 swaps outstanding.
- 3.8 Assist ESD as necessary in the event of an Internal Revenue Service (IRS) inquiry/audit.
- 3.9 Provide consultation to ESD staff as necessary regarding arbitrage matters.
- 3.10 Provide assistance and consultation as necessary to retain records and documentation at least six (6) years after the issue's final maturity.
- 3.11 A tax opinion by a qualified party/counsel that the methods are correct, the assumptions are reasonable and the rebate calculations comply with federal tax laws is required. A tax opinion is required with each rebate calculation performed (it can be issued by in-house tax counsel or obtained from an outside tax expert who must be identified in advance).
- 3.12 Prepare necessary reports and IRS forms to accompany any required payment to the Federal Government.
- 3.13 Provide any other related/necessary calculations/reports and assistance.

4.0 Response Requirements

Responses should not exceed 8 pages (excluding cover letter, Part 9, Part 10, and resumes), be single spaced in 10 point type or larger on 8½" x 11" paper. It should include a cover letter with the following items: Firm name, address, tel. number, fax number, email address and website address (if applicable); the name, title, tel. number, fax number and email address of the individual within the firm who will be ESD's primary contact concerning the proposal.

In your response, provide the information in the same order in which it is requested. Your proposal must contain sufficient information to assure ESD of its accuracy.

All responding firms must complete Part 10 - Exhibits to RFP.

In order to facilitate the response evaluation process the Responder shall provide concise answers to the items listed below:

- 4.1 Describe the responder's experience and qualifications in providing arbitrage compliance and calculation services (including how long the responder been providing rebate services and demonstrated capacity to perform the types of services described herein). Please provide information regarding tax law and bond law expertise. Provide a brief description of various types of projects where the firm has acted as Arbitrage Rebate Consultant to a public entity such as ESD.

- 4.2 Provide detail on the approach the Responder would use for ESD to remain in compliance with Federal arbitrage rules. Please address issues such as restricted and unrestricted periods, yield reduction payments, and other relevant items you deem to be pertinent.
- 4.3 Provide a brief explanation of differing methods of calculation and identify the method(s) the responder recommends and why.
- 4.4 Designate the individual(s) who will be working with ESD staff including their experience and qualifications. Provide a resume for each individual.
- 4.5 Provide three (3) references for which you are currently providing arbitrage calculations or have provided services in the last three years along with names, titles, phone numbers and email addresses.
- 4.6 Identify any information or assistance you may require from ESD staff in completing the calculations. Include your needs for bond issuance and investment information, and any special reports that may be required.
- 4.7 Describe the software used to perform the arbitrage calculations, including a description of how data is backed-up and stored.
- 4.8 Provide an estimate of the time it will take to complete the tasks listed herein and describe the follow-up consultation to include services available after completion of said tasks.
- 4.9 How you would propose to handle amending your calculations if there are new IRS regulations or guidance from the IRS.
- 4.10 Identify the types of insurance carried by the Responder, including the amount of Errors and Omissions insurance.
- 4.11 In your response, indicate how you would propose to handle a change in your interpretation of arbitrage rules.
- 4.12 Details of all fees and expenses should be included in your proposals. For example, base fee for each bond series including basic report (including legal opinion), incremental fee covering future computation periods, variable rate transaction fees, if there are any additional costs such as legal, set-up fees, or any other fees including additional fees for extraordinary items not included in the standard scope of service **(use Schedule A)**.

Any amendments or modifications to the RFP will be posted on the ESD website at: <http://www.esd.ny.gov/CorporateInformation/RFPs.html>. It is the proposers' responsibility to check the ESD website for any amendments.

ESD reserves the right to accept or reject any proposal in its sole discretion. If an oral presentation is required, responding firms would be notified accordingly.

5.0 Miscellaneous Conditions

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

ESD reserves the right to:

- A- amend, modify or withdraw this RFP;
- B - revise any requirements of this RFP;
- C - require supplemental statements or information from any responding party;
- D - accept or reject any or all responses hereto;
- E - extend the deadline for submission of responses hereto;
- F - negotiate or hold discussions with any firm and to correct deficient responses which do not completely conform to the instructions contained herein; and
- G - cancel, or reissue in whole or in part, this RFP, if ESD deems it in their best interest to do so.

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

This RFP and any agreement that may result from it are subject to all applicable laws, rules and regulations promulgated by any federal, state or local authority having jurisdiction over the subject matter hereof, as the same may be amended from time to time.

The RFP does not commit ESD to select a firm.

Nothing stated at any time by any representative of ESD will effect a change in, or constitute an addition to, this RFP unless confirmed in writing by ESD.

Firms responding hereto must agree to keep confidential their responses and any information received from ESD.

Responders may be required to make oral presentations or be interviewed regarding their responses.

Any firm selected as a result hereof will be required to abide by all relevant policies and requirements of ESD.

6.0 Minority and Women-owned Business Enterprises

Pursuant to New York State Executive Law Article 15-A, ESD recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and

women-owned business enterprises and the employment of minority group members and women in the performance of ESD contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of the 2010 Business Diversification Act, which requires, among other things, that ESD achieves maximum feasible participation of MWBEs and the employment of minority group members and women in the performance of New York State contracts.

ESD is committed to diversity and equal employment opportunities among its contractors. ESD encourages all firms, including firms that are Minority and Women-owned Business Enterprise (MWBE) certified, to submit proposals in response to this RFP.

Please note that all certified MWBE firms submitting proposals to this RFP should be registered as such with the New York State Department of Economic Development. For firms that are not certified but have applied for certification, please provide evidence of filing, including the filing date.

Part 10, section 5, of this RFP contains information on ESD's Non-Discrimination and Affirmative Action Policy and information that must be submitted with all proposals.

7.0 Questions about the RFP

All questions concerning this RFP must be emailed to the email address listed below **no later than March 5, 2012**. Proposers or prospective proposers may not approach any other ESD officer, employee, contractor or agent or any other State entity relative to this RFP.

E-mail: ArbitrageRFP@esd.ny.gov

Any questions should cite the particular proposal section and paragraph number. Proposers should note that all clarifications and exceptions are to be resolved prior to submission of the proposal.

A list of any substantive inquiries received along with relevant responses will be posted on ESD's website <http://www.esd.ny.gov/CorporateInformation/RFPs.html> by **March 9, 2012**. Proposers are responsible for checking the ESD website for answers to any questions. These

questions may be emailed for clarification of the specifications of this Request for Proposal only. No authority is intended or implied that specifications may be amended or alternates accepted prior to the due date unless written notification is given by ESD. Under no circumstances will private meetings be scheduled between responders and ESD Staff prior to the RFP due date.

8.0 Submission

Seven (7) hard copies and one (1) electronic CD copy of your response marked "**Arbitrage Compliance Consultant Proposal**" along with a completed Schedule A and all Exhibits **must be received no later than 5pm, March 20, 2012.**

Fax submissions will not be considered under any circumstances. Proposals received after the submission date may be rejected.

All proposals and accompanying documentation will become the property of ESD and will not be returned. The content of each proposal will be held in strict confidence during the evaluation process, and no details of any proposal will be discussed outside the evaluation process. An official of the responding firm authorized to commit the company to a contract must sign the proposal.

Proposals should be sent to:

Empire State Development
633 Third Avenue – 35th Fl.
New York, NY 10017

Attn: Peter Heilbrunn, Sr. Director, Debt Management

9.0 Schedule A

**Empire State Development
Arbitrage Rebate Compliance Consultant Fee Evaluation Form**

1. Report Fee – Fixed Rate Bond Deals	<u>Base Fee</u> (Initial Reports)	<u>Subsequent</u> (Future Reports)
a) Annual Report	_____	_____
b) Five Year Report	_____	_____
c) Per Report (if applicable)	_____	_____
2. Report Fee – Variable Rate Bond Deals	<u>Base Fee</u> (Initial Reports)	<u>Subsequent</u> (Future Reports)
a) Annual Report	_____	_____
b) Five Year Report	_____	_____
c) Per Report (if applicable)	_____	_____
3. Fees for any services that would be billed at an hourly rate		
4. Legal Opinion (if separate and/or extra charge)		
5. Please detail any additional fees or costs		

10.0 Exhibits to RFP that must be completed

Please complete and return the following items with your proposal:

1. Certification Concerning Independent Proposal
2. Certification Pursuant to State Finance Law §139-j and. §139-k
3. Certification Regarding Commission on Public Integrity
4. Sales Tax Certification – Form ST-220-CA
5. ESD's Non-Discrimination and Affirmative Action Policy Statement Requirement
6. Affidavit of Non-Applicability of State Tax Law §5-A
7. Vendor Responsibility
8. Insurance

1. Certification Concerning Independent Proposal

_____ hereby certifies as follows in connection with our Proposal:

- A. Except as described below, we have prepared our Proposal independently, without consultation, communication, or agreement as to any matter with any other proposer to the RFP or with any competitor.
- B. Except as described below, we have not disclosed our Proposal and, unless otherwise required by law, will not disclose our Proposal prior to award, either directly or indirectly, to any other firm or to any competitor.
- C. Except as described below, we have made no attempt and will make no attempt to induce any other person or firm to submit or not to submit a Proposal.
- D. Except as described below, there are no fee splitting arrangements, finder's fees, consulting arrangements or any other financial arrangement in connection with this proposal or the subsequent transactions contemplated by this proposal.

Exceptions if any:

Signature of Authorized Officer

Date

Title

2. Certification Pursuant to State Finance Law §139

This form shall be completed and submitted with your proposal. Failure to complete and submit this form may result in a determination of non-responsiveness and disqualification of the proposal.

I. Affirmation relating to procedures governing permissible contacts:

(Proposer must check applicable box)

Proposer: affirms does not affirm

that it understands and has to date and agrees hereinafter to comply with the Corporation's procedures relative to permissible contacts for this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b).

II. Disclosure of Findings of Non-Responsibility and Prior Contract Terminations or Withholdings under the 2005 Procurement Lobbying Law:

1. Has any "governmental entity," as defined by State Finance Law §139-j and §139-k, made a finding in the last four years that the firm was not responsible?

No Yes

2. If yes, was the basis for any such finding(s) the intentional provision of false or incomplete information required by State Finance Law § 139-j and §139-k, and/or the failure to comply with the requirements of State Finance Law §139-j (3) relating to permissible contacts?

No Yes

If yes, please provide details regarding each finding of non-responsibility below. (Attach additional pages, if necessary)

Governmental Entity: _____

Date of Finding: _____

Basis of Finding: _____

3. Has any "governmental entity" as defined in State Finance Law §139-j and §139-k terminated or withheld a procurement contract with the firm due to the intentional provision of false or incomplete information required by such Laws and/or the failure to comply with the requirements of State Finance Law §139-k(3) relating to permissible contacts?

No Yes

If yes, please provide details below. (Attach additional pages, if necessary)

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding of Contract: _____

The undersigned acknowledges and states that all information provided to the Corporation with respect to State Finance Law § 139-j and § 139-k is complete, true and accurate.

Signature of Authorized Officer

Date

Title

Address

3. Certificate Regarding Commission on Public Integrity

The New York Temporary State Commission on Lobbying and the New York State Ethics Commission has merged and are now the York State Commission on Public Integrity. Has your firm, or any of the members discussed in your proposal, been the subject of any investigation or disciplinary action by the New York State Ethics Commission New York Temporary State Commission on Lobbying or the New York State Commission on Public Integrity?

Yes [] No []

If yes, please describe briefly how any matter was resolved or whether it remains unresolved:

Certification

The undersigned personally does hereby state and certify to the Empire State Development that the information given above is true, accurate and complete.

By: _____
(Signature)

Title: _____

Firm's Legal Name: _____

Date: _____

4. Sales Tax Certification

The Tax Law was amended to require contractors with state agencies to certify to the Department of Taxation and Finance (DTF) that they, their affiliates, their subcontractors and the affiliates of the subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. Tax Law Section 5-a applies to all contracts in excess of \$100,000 for the purchase by a covered agency of commodities or services, awarded pursuant to Article XI of the State Finance Law.

For submission to the Corporation, **Contractors must complete Contractor Certification Form ST-220-CA, a required document to be provided by the contractor to the procuring agency before a contract may take effect.** This certification to the procuring agency, also made under penalty to perjury, states that the requisite (ST-220-TD) certification has been made to DTF and, to the best of the contractor's knowledge, that the requisite (ST-220-TD) certification is correct and complete.

If a contractor has any questions regarding either forms, ST-220-CA or ST-220-TD, the New York State Comptroller G Bulletin will provide background information and necessity of both forms (<http://www.osc.state.ny.us/agencies/gbull/g222a.htm>).

Contractors can refer to the Department of Taxation and Finance website, or the NYS Tax Law, Section 5-a, Contractor Affiliate, Subcontractor, and Subcontractor Affiliate Sales and Compensating Use Tax Registration for additional information and guidance.



New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description
Contractor's principal place of business	City State ZIP code	
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)	
Contractor's telephone number	Covered agency name	\$
Covered agency address		Covered agency telephone number

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____

(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this _____ day of _____, 20 _____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20___, before me personally appeared _____,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public
Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 306, 429, 475, 506, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 406(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

5. Non-Discrimination and Affirmative Action Policy Statement

It is the policy of the State of New York and ESD, to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action in working with contracting parties to ensure that Minority and Women-owned Business Enterprises (MWBE's), Minority Group Members and women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds. ESD's non-discrimination and affirmative action policy will apply to this initiative. A copy of each proposer's Equal Employment Opportunity Policy Statement shall be included as part of the response to this RFP. Selected firms will be subject to compliance with all applicable ESD requirements. The ESD Affirmative Action Office ("AAO") is available to assist you in identifying New York State certified MWBEs that can provide services in connection with this initiative; if you require MWBE listings, please call the AAO at (212) 803-3225. MWBE's are encouraged to respond.

6. Affidavit of Non-Applicability of State Tax Law §5-A

AFFIDAVIT OF NON-APPLICABILITY OF STATE TAX LAW § 5-A

State of New York }
 } ss.:
County of }

_____ being duly sworn, do depose and state under penalty of perjury that I am the _____ [state title] of the contractor _____ [state name of contractor] responding to the procurement solicitation by the New York State Urban Development Corporation d/b/a Empire State Development or it's subsidiary (collectively, "ESD") herein. I have read and am aware of the requirements of State Tax Law § 5-a with respect to registration with the New York State Department of Taxation and Finance ("NYSDTF") in connection with collection of sales and compensating use taxes imposed by Articles 28 and 29 of the State Tax Law. Neither the contractor nor any affiliate or sub-contractor as defined in the State Tax Law is registered or is required to be registered with NYSDTF for this purpose pursuant to any provision of the State Tax Law. I make this affidavit intending that ESD will rely thereon in considering the contractor's response to the solicitation, and with knowledge that any false information contained herein shall render the contractor's response to the solicitation non-responsive, and may result in other action by ESD including, without limitation, reporting the statement to relevant authorities.

Signed: _____

Print Name: _____

Sworn to before me, a Notary Public, this _____ day of _____, 20__

STAMP

My commission expires on _____

7. Vendor Responsibility

ESD encourages vendors to register in the State's Vendor Responsibility System (VendRep System). The VendRep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. New York State Procurement Law requires that state agencies award contracts only to responsible vendors. Vendors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep system online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us.

Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website http://www.osc.state.ny.us/vendrep/forms_vendor.htm and execute accordingly pertaining to the company's trade industry.

8. Insurance Requirements

Selected firm will be subject to compliance with applicable ESD insurance requirements.