REQUEST FOR PROPOSALS

FOR DEMOLITION
AT
TRANSFORMER BUILDING, JACOB K. JAVITS CONVENTION CENTER

PROPOSAL DUE DATE AND TIME: October 5, 2016 3:00 pm EST
(Late proposals cannot be accepted)

TABLE OF CONTENTS

I. Introduction

II. Description

III. Scope of Work

IV. Required Information

V. Schedule of Dates

VI. Selection Criteria

VII. Submission of Proposals

VIII. Questions

IX. General Provisions

X. Procurement Forms and Requirements

Appendix A - Tishman Pre-Qualification Questionnaire

Appendix B - Rider 'A', dated August 29, 2016

Appendix C - Rider 'B', dated August 23, 2016

Appendix D - Rider D, dated July 22, 2016

Appendix E - Insurance Rider, dated June 2016

Appendix F - Rider S, dated June 2, 2016

Appendix G - Javits Expansion Phasing Plan, dated August 10, 2016

Appendix H - Transformer Building Drawings, dated August 12, 2016

Appendix I - Transformer Building Specifications, dated August 12, 2016

Appendix J - PANYNJ Design Requirements, dated June 2016

Appendix K - PLA, dated April 13, 2016

Appendix L – Trade Contract

Appendix M – Schedule A

I. INTRODUCTION

The New York Convention Center Development Corporation ("NYCCDC" or the "Owner"), a subsidiary of the New York State Urban Development Corporation (d/b/a Empire State Development ("ESD") has retained Tishman Construction Corporation ("Tishman") as Construction Manager and Agent for NYCCDC with respect to the construction of a Transformer Building and Utility Relocation Services at the Jacob K. Javits Convention Center (the "Project").

Tishman, as Agent, is assisting NYCCDC in the procurement of contractors in furtherance of the Project.

This Request for Proposals (RFP) seeks proposals from bidders to perform demolition services related to the construction of the Transformer Building at the Jacob K. Javits Center.

II. DESCRIPTION

The new Transformer Building is to be built over the existing transformer yard. It is a 3 level building approximately 60' high, 80' wide and 170' long.

The proposed Transformer Building, which would be located at Twelfth Avenue and West 39th Street on the Javits Center campus will address issues crucial to the proposed expansion of the convention center and flood protection. The Transformer Yard will be elevated out of the flood plain and service will be provided to meet anticipated increased electrical demand.

The Transformer Building's function is to provide new medium voltage Con Edison electrical service (6 dry transformers in open areaways on level 3), switchgear, stand by generator plant, life safety generator, medium voltage distribution system, and fire protection for the existing Javits Convention Center, and future expansion, on elevated, enclosed platforms. Each generator plant has its own fuel storage at ground level with 72 hours of fuel storage for the stand by generators and 36 hours of fuel storage for the life safety generator. Fueling would take place on 12th Avenue and 39th Street via fuel fill boxes in the new precast concrete screen wall, which replaces the existing wall in kind. The existing fire pump will be replaced and relocated at ground level. All fuel storage, fuel pump, and fire protection rooms at grade are flood protected. During construction, and through the transfer of services, power and life safety services will be maintained to the existing Javits Center.

The building is fully sprinklered with an additional foam fire protection system serving the fuel storage and pump rooms on level 1 at grade. A unisex toilet room, janitor's sink, and drinking fountain are located on level 2 (+32'). Two hose bibs are located on the roof to serve irrigation and routine maintenance requirements.

The Transformer Building will be built over the existing transformer yard. As designed it is a 3 level building approximately 76' high, 82' wide and 170' long clad in insulated precast concrete panels. The roof level has a horizontal canopy (screening rooftop equipment) intermixed with

‘greenscreen’ elements and planters that support climbing vines. Acoustic panels are placed intermittently along the north edge of the building roof to mitigate rooftop unit noise. Temporary exterior stairs provide egress on the north and south sides of the building.

The Transformer Building structure consists of a structural steel frame with two supported levels. The floors (Level 2 at elevation +23/+32’, Level 3 at elevation +53’-6”) are composed of a concrete slab on metal deck supported by steel beams with composite studs. The structural frame comprises a heavy wide flange steel columns at wide spacing at the perimeter and no interior columns. To accommodate the long spans and create the required headroom below the perimeter girders are incorporated into story deep trusses between Levels 2 and 3. The lateral load resisting system is composed of moment frames in the north-south direction at the ends of the building and moment frames in the east-west direction incorporating the deep trusses on the north and south facades. The foundation system consists of straight shaft drilled caissons extended into the underlying bedrock and sleeved to create a de-bonded zone to the depth of the influence zone of the adjacent tunnel tube. Caisson locations are carefully determined to avoided underground utilities and the equipment of the existing transformer yard, which will remain in operation during the construction of the new Transformer Building.

NYCCDC strongly encourages firms that are certified by New York State as minority- and women-owned business enterprises (“MWBE”) or service-disabled veteran-owned businesses (“SDVOB”), as well as firms that are not yet certified, but have applied for certification, to submit responses to this RFP.

III. SCOPE OF WORK

Please see attached Appendices for scope of work.

IV. REQUIRED INFORMATION

- Completed Tishman Pre-Qualification Questionnaire.
- Letter from surety stating available bonding capacity.
- Resumes of supervisory personnel for project.
- All forms and material listed in Section X of this RFP.
- Lump sum Proposals per Bid Forms submitted with RFP.
- Provide Schedule showing duration and phasing of work.

V. ESTIMATED SCHEDULE OF DATES

Release of RFP	September 12, 2016
Site Walk-Through*	September 15, 2016 1:00pm EST
Deadline for Submission of Questions	September 19, 2016 5:00pm EST
Deadline for ESD to Respond to Questions	September 26, 2016
Submission of Proposals (date and time)**	October 5, 2016, 3:00pm EST
Announcement of Successful Bidders	On or Before November 11, 2016

*A site walkthrough is being conducted to review existing conditions. Site walk through is not mandatory for bidding. Any and all questions from the walk through or the bidding must be formally submitted as outlined in the RFP. Should you choose to attend please limit the amount of people in your group to 3. Please RSVP at least 1 day before the walk through at demolitionrfp@esd.ny.gov. Please meet at the Javits Center Admin Entrance off 34th street.

**Sealed bids will be received and publicly read aloud at the Empire State Development (ESD) office at 633 Third Avenue, New York, NY 10017. The date and time of the bid opening will be posted on ESD's website: http://esd.ny.gov/CorporateInformation/RFPs.html. Bidders will be allowed to bring a maximum of two (2) representatives to the bid opening.

VI. SELECTION CRITERIA

The Proposer who submits the lowest bid, and who is both found to be responsible and qualified will be selected to perform the Work.

The qualifications of bidders will be assessed as follows:

The low bidder shall demonstrate its responsibility to perform and complete all required work by submitting a statement of its experience and of any subcontractors which the low bidder intends to use to perform the work (see Tishman Pre-Qualification Questionnaire). The low bidder shall include his plan or program for providing sufficient labor and equipment to perform the project as detailed by the project documents, within the allotted time frame and sequencing for the work. Low bidder is encouraged to employ local labor.

The Prime Contractor shall have a valid New York State Department of Labor (NYSDOL) Company license. The Prime Contractor must identify a Project Manager and a Site Superintendent, currently employed by the Prime Contractor or a teamed qualified Subcontractor, who can demonstrate a minimum 3-year history supervising work similar to the scope of services contemplated by this RFP under NYSDOL codes, rules, and regulations.

The low bid Prime Contractor or its teamed qualified Subcontractor must demonstrate a minimum of 3 years of experience and the completion of 2 projects of similar scope in a similar setting. Additional qualification requirements and certifications as required by the individual technical specifications must be met by either the Prime Contractor or its teamed qualified Subcontractor.

The Prime Contractor shall obtain performance and payment bonds directly from a Surety Company with a minimum rating by A.M. Best of (A-) in the "Best's Key Rating Guide". The surety firm must be licensed to bond construction projects in the state of New York. The Contractor's personnel shall also have OSHA 10-hour Construction Safety & Health certifications.

Empire State Development may require the low bidder to further demonstrate its responsibility to perform and complete the work by submitting additional information regarding the low bidder's experience, obtaining labor/work force and financial resources. The prime Contractor shall

demonstrate that they have the financial resources to perform the work. If requested by Empire State Development, additional information must be submitted by the low bidder within three (3) business days of the request. All information pertaining to the bidder's financial resources shall be submitted by a Certified Public Accountant.

The low bid Prime Contractor must provide evidence of a satisfactory Safety Record, which will be evaluated based on the EMR for the past 3 years submitted with the Tishman Pre-Qualification forms.

VII. SUBMISSION OF PROPOSALS

All Proposals must be delivered to the below address by no later than October 5, 2016, 3:00 P.M. EST. Please provide 6 copies to the address below and one electronic copy of your Proposals to demolitionrfp@esd.ny.gov attention: Edgar Camacho.

Empire State Development
633 Third Avenue 35th Floor
New York, New York 10017-8167
Attention: Edgar Camacho
RFP: Javits, Utility Relocation Work- Water Mains

VIII. QUESTIONS

All questions, comments, requests for clarification or any other communication regarding this RFP must be submitted in writing no later than September 19, 2016 at 5:00 P.M. EST by e-mail to: demolitionrfp@esd.ny.gov, attention Edgar Camacho.

Answers will be posted no later than September 26, 2016 at 5:00 P.M. EST via ESD's website: http://esd.ny.gov/CorporateInformation/RFPs.html.

In addition, any changes, additions or deletions to this RFP will also be posted on ESD's website, along with the electronic version of this RFP. Respondents should note that any necessary clarification must be sought by the deadline for questions set forth in the "Schedule of Dates" section in this RFP.

Respondents are urged to check ESD's website frequently for notices of any clarification of or changes, additions, or deletions to this RFP.

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

IX. GENERAL PROVISIONS

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

1. amend, modify or withdraw this RFP;
2. revise any requirement of this RFP;
3. require supplemental statements or information from any responsible party;
4. accept or reject any or all responses hereto;
5. extend the deadline for submission of responses hereto;
6. negotiate potential contract terms with any respondent to this RFP;
7. discuss with any respondent to this RFP corrections and/or clarifications with respect to responses provided which do not conform to the instructions contained herein;
8. cancel or reissue, in whole or in part, this RFP, if ESD determines in its sole discretion that it is in its best interest to do so; and
9. 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.

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 with a value in excess of one million dollars, or modifications to contracts that result in an aggregate value in excess of one million dollars, where such contracts are paid in whole or in part with monies appropriated by the State, or were awarded on a basis other than a competitive procurement (as that term is defined in the law and regulations). If 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.

X. PROCUREMENT FORMS AND REQUIREMENTS

Additional requirements for this RFP are described below. Relevant forms, where required to be submitted, must be executed and included in the submission in the same order as listed below:

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)

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 listed below; 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 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.

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 Edgar Camacho and all communications should be sent to Edgar Camacho at Utilityrelocationworkwatermains@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://esd.ny.gov/CorporateInformation/Data/RFPs/RequiredForms/PermissibleContactsPolicy_Jan2007.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 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.

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) 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/NYCCDC 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/NYCCDC 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/NYCCDC 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/ NYCCDC 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/ NYCCDC 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. 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/ NYCCDC to be inadequate, ESD/ NYCCDC 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/ NYCCDC 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/ NYCCDC, 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 sub-contractors 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
Form OCSD-2: http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_2StaffingPlan.pdf
Form OCSD-3:
http://esd.ny.gov/CorporateInformation/Data/RFPs/OCSD_WorkforceUtilizationReport.xlsx
Form OCSD-4:
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.

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 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

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/ NYCCDC hereby establish a goal of 6% 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.

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), or an affidavit (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. Contract

Following final selection of a Respondent, ESD/ NYCCDC will prepare a contract defining all project terms and conditions and the Respondent's responsibilities in conformance with the form of Trade Contract attached to this RFP as Appendix L, and in conformance with "Schedule A," attached to this RFP as Appendix M.

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/ NYCCDC contracts, and raise any concerns present prior to submission of their Proposal, as Respondents will need to accept these terms prior to contract execution. Additional contract terms may be required and will be included in any subsequent Request for Proposals for this work.

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 RFQ) 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.