



**Empire State
Development**

**REQUEST FOR PROPOSALS FOR
INSPECTION SERVICES**

**TRANSFORMER YARD PROJECT AT THE
JACOB K. JAVITS CENTER**

PROPOSAL DUE DATE AND TIME: October 5, 2016, 3:00 PM EST
LATE PROPOSALS CANNOT BE ACCEPTED

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I. INTRODUCTION

The New York Convention Center Development Corporation (“NYCCDC” or the “Owner”), a subsidiary of New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) is undertaking the construction of a transformer building (the “Transformer Building”) and relocating certain utilities at the Jacob K. Javits Convention Center (“Javits Center”) in New York, New York (the “Project”). In connection with the Project, NYCCDC seeks to engage an accredited Special Inspections Agency (“SIA”).

NYCCDC has been supported in its planning, design, and implementation efforts by engaging the design firm Javits II Architecture, LLC (“JIIA”), the construction manager, Tishman Construction Corporation (“Tishman”), the environmental engineering firm, Langan Engineering and Environmental Services, Inc. (“Langan”), and the project advisor Lehrer, LLC (“LLLC”).

This Request for Proposal (“RFP”) provides an overview of the Project parameters and information to be included in the Proposal response.

II. BACKGROUND

This Request for Proposals (RFP) seeks proposals from bidders to provide inspection services in connection with the construction of the Transformer Building at the Javits Center.

The proposed Transformer Building, which would be located at West 39th Street and Twelfth Avenue at the Javits Center 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 will be 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 will have 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 will take place on 12th Avenue at West 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 would be maintained to the existing Javits Center.

The Transformer Building would be 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 will be located on level 2 (+32'). Two hose bibs will be 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 have been carefully determined to avoid underground utilities and the equipment of the existing transformer yard, which will remain in operation during the construction of the new Transformer Building.

Pursuant to Part G of Chapter 73 of the Laws of 2016, the Dormitory Authority of the State of New York (DASNY) is authorized to serve as construction permitting agency on the Project, and DASNY is reviewing and permitting the Project per the requirements of the 2014 New York City Building Codes. Qualified special inspection agencies acceptable to DASNY and registered design professional of record shall conduct special and progress inspections and tests as required by Chapter 17 and other applicable Sections of the 2014 NYC Building Code and as indicated on the DASNY Statement of Special Inspections and Tests completed by the design professional. It shall be noted that 'special inspections' where used shall be taken to also include 'progress inspections'. The Project shall comply with the requirements of Chapter 17 and other applicable Sections of the 2014 NYC Building Code, Rules of the City of New York and applicable reference standards in the execution of the special inspection program. All documentation shall be provided to parties as dictated by the Code, including but not limited to SIA, Design Professional, Owner, or DASNY.

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. PROJECT ORGANIZATION

NYCCDC owns the Javits Center. NYCCDC has selected JIA to lead the design of the Project; JIA holds various design consultant contracts. Collectively, NYCCDC, LLLC, JIA, JIA subconsultants, Tishman, and Langan shall be referred to herein as the “Project Team.” The selected SIA shall work in coordination with various members of the Project Team.

IV. ANTICIPATED PROJECT SCHEDULE

The anticipated project schedule and milestones are included as Exhibit A.

Architect/Engineer inspections will be ongoing. Anticipated start dates and durations are subject to change and updated drawings will be issued upon award, and as design progresses and is finalized.

V. SCOPE OF WORK

NYCCDC is soliciting proposals from highly qualified and experienced SIA interested in providing inspection services required for the Project; the SIA shall be accredited by the International Accreditation Service, Inc. (IAS) or an equivalent accreditation agency and registered with NYC Department of Buildings in accordance with 1 RCNY 101-06. The selected SIA is to provide services in accordance with Chapter 17 and other applicable sections of NYCBC, as well as Title 1 of the Rules of the City of New York, including 101-06 for Special Inspections; 101-07 for Approved / Progress Inspection Agencies; and 5000-01 for Energy Code Progress Inspections and best professional practices. The SIA shall refer to the attached exhibits and below for required scope of services.

The scope of services for this assignment shall consist of providing, to the satisfaction of NYCCDC, the below services. The scope of services described herein may not be all-inclusive and does not limit scope of services, but rather is provided to clarify expectations from NYCCDC. *Please include and/or identify any additions or exceptions to the scope of services with your proposal.*

The SIA shall:

- 1) Appoint and designate a qualified and accessible project manager who will be primary project contact, familiar with the contract terms and fees, and responsible for tracking of SIA efforts;
- 2) Comply with all federal, state, local and city laws, ordinances and regulations of any and all governmental agencies having jurisdiction over the work;
- 3) Possess any and all licenses and/or accreditations necessary to perform the services as required by law;
- 4) Attend project and other meetings as necessary and/or as determined by NYCCDC, and coordinate work with members of the Project Team;
- 5) Provide regular reports documenting the satisfactory completion of required inspections and testing as well as non-conformance reports (NCR) as necessary; the NCR shall be diligently tracked by the SIA with proper follow-up to ensure resolution;
- 6) Provide and transmit inspection reports on the same day of the inspection via email; a distribution list will be provided upon award;
- 7) Provide on-site quality control during various aspects of construction;
- 8) Perform and document full service special inspections and materials testing as required for the duration of construction of the types of work listed under the NYC Building Code (BC) and in accordance with special inspections described herein and required for the Project;
- 9) Provide and maintain accurate sign-in and sign-out log book (i.e. time, date, and name) on site;
- 10) Submit via email a schedule of inspection staff that will be on site at least a day before inspections take place;
- 11) Coordinate of all inspection efforts as requested and required by Project Team. Coordination with DASNY, if required, shall be made by Project Team and not SIA directly.
- 12) Prepare and submit the necessary DASNY forms associated with the special and progress inspections;
- 13) Prepare, sign and seal the required regulatory agency forms (i.e. Final Report of Special Inspections, with required forms, etc.);
- 14) Transmit and coordinate documentation to DASNY or consultant for filing, as necessary; and
- 15) Perform and document full service special and progress inspections and materials testing in accordance with and as defined by Statement of Special Inspections prepared by the Registered Design Professional of Record included as **Exhibit E**.

The sign-in and sign-out log book shall be maintained on site; failure to sign in/out on the day of inspection may result in no payment or an adjusted payment. Log books shall remain on site (i.e. in construction trailer or office) and shall not be removed for any reason. Copies of sign-in and sign-out sheets shall be provided with invoices for payment.

Respondents shall identify and propose pricing for the anticipated inspections required (i.e. field inspection, offsite inspection, samples, density tests, etc.), and identify unit pricing as appropriate, in the attached **Exhibit B**.

Inspections shall be provided as requested by NYCCDC, CM, and/or LLLC, with a minimum of 24-hour notice. NYCCDC, CM, and LLLC will endeavor to provide 48-hour notice. Coordination of inspections with DASNY inspectors may be required. *Please provide terms for "Same Day Cancellation" in Exhibit B.*

Anticipated inspections are subject to change as design is being finalized. Please also reference the project drawings and specifications included as part of this RFP (Exhibits C and D). Respondents are encouraged to respond and propose a fee for a portion of the services described herein if the Respondent is unable to provide all inspection services. NYCCDC reserves the right to select a single or multiple SIA for services described herein. At NYCCDC's election, the selected SIA may provide all or some of the services described herein.

VI. REQUIRED INFORMATION

Firm Overview and Qualifications: Provide a brief description of your firm and narrative of your firm's qualifications to perform the work described in this RFP. Provide copies of any pertinent licensing or accreditations. For proposed key staff, provide names, resumes and qualifications as outlined in RCNY 101-06, Appendix A for special inspectors.

Relevant Experience and References: Describe your firm's relevant experience. Provide references for projects completed within the past five (5) years, which represent your firm's relevant experience for comparable projects; include the contact information of individuals who can speak to specific team members' relevant experience.

Fee Proposal: Propose an estimated fee and rates for the scope of services described herein. Respondents shall provide a fee proposal using **Exhibit B** and identify and provide any terms for "Same Day Cancellation". Fee shall be inclusive of all personnel,

reimbursable expenses, overhead, and profit for the duration of the Project. Exhibit B format may be updated or expanded as needed and as appropriate; however, notes shall not be modified. Respondents shall identify any additions or clarifications on a separate sheet as part of your response.

All forms and materials required in Section XI of this RFP.

VII. SCHEDULE OF ANTICIPATED DATES

Description	Date
RFP Issuance	September 13, 2016
Respondents' questions due	September 19, 2016
NYCCDC answers posted	September 26, 2016
Proposals due	October 5, 2016
Award target	On or before November 4, 2016

VIII. SELECTION CRITERIA

NYCCDC reserves the right to waive any irregularities in the selection process and shall, at its own discretion, determine the appropriateness and acceptance of submitted qualifications.

Evaluation of proposals and selection will be based on the following criteria with the accompanying weightings used to calculate an overall Proposal score:

- Team member qualifications (35%)
- Previous experience with similar projects in NYC with relevant state and local agencies (35%)
- Pricing structure (20%)
- Diversity practices (10%)

NYCCDC reserves the right to select a single or multiple SIA for services described herein.

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, in the form of a flash drive, of your Proposals to javitsinspectionrfp@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, INSPECTION SERVICES

Respondents shall avoid submission of marketing materials. Proposals shall be no more than ten (10) pages in length, not including resumes.

IX. 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: javitsinspectionrfp@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.

X. GENERAL PROVISIONS

The issuance of this RFP and the submission of a response by a firm or the acceptance of such a response by NYCCDC does not obligate NYCCDC in any manner. NYCCDC 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. discussions with any respondent to this RFP to correct and/or clarify responses 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 its best interest to do so; and
9. extend the term of any agreement on terms consistent with this RFP.

NYCCDC 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 NYCCDC 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 NYCCDC Directors, which meetings are subject to the Open Meetings Law.

XI. 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)
9. Insurance Requirements

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

State Finance Law Sections 139-j and 139-k (collectively, the “Procurement Requirements”) apply to this RFP. These Procurement Requirements: (1) govern permissible communications between potential respondents and ESD or other involved governmental entities with respect to this RFP; (2) provide for increased disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) establish sanctions for knowing and willful violations of the provisions of the Procurement Requirements, including disqualification from eligibility for an award of any contract pursuant to this RFP. Compliance with the Procurement Requirements requires that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact persons 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 NYCCDC and 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 javitsinspectionrfp@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 NYCCDC and the Respondent, if any, shall include clauses providing that the Respondent remain “responsible” throughout the term of the contract, that NYCCDC may suspend the contract if information is discovered that calls into question the responsibility of the contracting party, and that NYCCDC 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, NYCCDC 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 NYCCDC 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 NYCCDC and ESD recognize 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 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 (“MWBE”) 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, 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 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 NYCCDC will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and ESD may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract (“Bidder”) agrees to demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence

thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting ESD’s Office of Contractor and Supplier Diversity at OCSD@esd.ny.gov. 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 NYCCDC.

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

2. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to Empire State Development, Office of Contractor and Supplier Diversity, 633 Third Avenue, New York, NY 10017, OCSD@esd.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD or 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 or 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 DED determines that the Bidder has failed to document good faith efforts.

The Contractor will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be

made at any time during the term of the Contract to ESD, but must be made no later than prior to the submission of a request for final payment on the Contract.

The Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to NYCCDC, 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 Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. 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.

Diversity Practices

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

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

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

http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

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, DED hereby establishes 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. Schedule A

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

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

Please note Respondents do not need to complete the entire Schedule A with the submission of their Proposal. However, Respondents should still review these terms, which are standard in all 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.

8. Project Sunlight

This procurement is subject to the Public Integrity Reform Act of 2011. Under the Public Integrity Reform Act of 2011, "appearances" (broadly defined and including any substantive interaction that is meant to have an impact on the decision-making process of a state entity) before a public benefit corporation such as ESD by a person (also broadly defined) for the purposes of procuring a state contract for real property (as contemplated in this RFP) must be reported by ESD to a database maintained by the State Office of General Services that is available to members of the public. If in doubt as to the applicability of Project Sunlight, Respondents and their advisors should consult the Laws of 2011, Ch. 399 for guidance.

9. Insurance Requirements

The selected Respondent will be required to provide the following insurance (at a minimum and to the extent applicable):

- Commercial General Liability of \$1 million per occurrence and \$2 million general aggregate;
- In the event that Respondent is using a vehicle in business, Commercial Automobile insurance with a limit of not less than \$1 million Bodily Injury/Property Damage each accident covering all vehicles including owned, non-owned and hired;
- Excess/Umbrella Liability of \$1 million with coverage at least as broad as and follow form of Employer's Liability, General Liability and Auto Liability;

- Professional Liability (Errors & Omissions) \$2 million minimum;
- Must show evidence of Worker’s Compensation insurance at State statutory limits, Employer’s Liability limits \$1 million Bodily Injury each Accident, \$1million Bodily Injury by Disease – policy limit, \$1million Bodily Injury by Disease – Each Employee ;
- Must show evidence of Disability insurance coverage at State statutory limits;

The People of the State of New York, NYS Urban Development Corporation d/b/a Empire State Development (ESD) and Convention Center Development Corporation (NYCCDC) must be named as additional insured on a primary and non-contributory basis on all of the following policies: Commercial General Liability, Excess/Umbrella and Auto Liability. All policies above should include a waiver of subrogation in favor of ESD and NYCCDC.

XII. Confidentiality

The information and data contained in this RFP is confidential to NYCCDC. Your firm shall not disclose any information contained herein or any subsequent information supplied by NYCCDC without prior written approval. No press release, public announcement, denial, or confirmation of any part of the subject matter of this request shall be made without the prior written consent of NYCCDC. In addition, NYCCDC’s name shall not be used as a potential customer of the firm without prior written consent.

XIII. Respondent’s Proprietary Data

Your proprietary data and/or pricing information will be protected by NYCCDC with the same degree of care and protection that NYCCDC exercises with its own proprietary data. Any such proprietary data presented in the response must be clearly identified in your RFP.

XIV. Costs Associated with RFP Response

NYCCDC assumes no liability or responsibility for any costs associated with the production or presentation of your firm’s response to this RFP.

XV. RFP Submittal Property

All proposals submitted will become the property of NYCCDC and will not be returned.

XVI. Exhibits

Attached to this RFP are the following documents for review:

- A. Project Schedule

- B. Form of Fee Proposal
- C. Transformer Building Drawings
- D. Transformer Building Specifications
- E. DASNY Statement of Special Inspections
- F. Diversity Questionnaire and Scoring Matrix