

RFA #21-BOA-06

**New York State Department of State
Office of Planning, Development and Community Infrastructure
BROWNFIELD OPPORTUNITY AREA PROGRAM
2021 - 2022 REQUEST FOR APPLICATIONS**

Key Dates:

RFA Release Date: May 10, 2021. This Request for Applications (RFA) has been posted on the Department of State's (Department) website at <https://dos.ny.gov/funding-bid-opportunities>.

RFA Updates/Questions: Any updates and/or modifications to this RFA will be posted on the Department's website at <https://dos.ny.gov/funding-bid-opportunities>.

Written questions will be accepted until June 18, 2021. Questions regarding this grant program should be submitted by e-mail to opd@dos.ny.gov or in writing to the address below. No responses will be provided to inquiries made by telephone or social media. When corresponding by e-mail, clearly indicate the subject as: "21-BOA-06 RFA Questions". To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers. Responses to questions received by June 18, 2021 will be posted by July 6th on the Department's website at: <https://dos.ny.gov/funding-bid-opportunities>.

It is recommended all applicants review the final responses. The responses to questions received during this time period will be official responses by the Department of State (DOS) to questions and will be incorporated into this Request for Applications.

Workshop Dates: Pre-application workshops or webinars will be held to provide an overview of the application process and program requirements. Scheduled events and further information are available at <http://regionalcouncils.ny.gov/>. All potential applicants are encouraged to attend.

Applications Due: Applications are due by 4:00 PM, July 30, 2021, and must be submitted through the web-based Consolidated Funding Application, as noted below.

Contact: NYS Department of State
Office of Planning, Development
and Community Infrastructure
Attn: BOA RFA Questions
99 Washington Avenue, Suite 1010
Albany, NY 12231-0001
opd@dos.ny.gov

Application Submission: To apply, or to access related Consolidated Funding Application materials, go to <http://regionalcouncils.ny.gov/>.

Letters of Support: Letters of support may be submitted through the CFA portal. Letters may be addressed to Secretary of State Rossana Rosado, c/o Office of Planning, Development and Community Infrastructure, 99 Washington Avenue, Suite 1010, Albany, NY 12231-0001.

Brownfield Opportunity Area Program 2021-2022 REQUEST FOR APPLICATIONS

I. INTRODUCTION

The Department of State (Department) is soliciting applications through the New York State Consolidated Funding Application (CFA) from eligible municipalities, community-based not-for-profit organizations, and NYC Community Boards to complete: (1) a Brownfield Opportunity Area (BOA) Nomination for a community affected by known or suspected brownfields, (2) pre-development activities within a BOA where a Nomination forms the basis for a designation by the Secretary of State (referred to here as a State-Designated BOA), and (3) Phase II Environmental Site Assessments (SA) within a State-Designated BOA.

Brownfields include real properties where a contaminant is present at levels exceeding the soil cleanup objectives or where levels exceed other health-based or environmental standards, criteria, or guidance adopted by New York State Department of Environmental Conservation. The applicability of these regulations is based on the reasonable, anticipated use of the property. Known or suspected site contamination of real property can impede investment and redevelopment, making such property an economic and environmental drain on localities. Through the New York State Department of State Brownfield Opportunity Area (BOA) Program, these known and suspected brownfields are transformed from liabilities to community assets that generate businesses, jobs and revenues for local economies and provide new housing and public amenities.

The BOA program applies a neighborhood or area-wide approach, rather than the traditional site-by-site approach, to the assessment and redevelopment of known or suspected brownfields and other vacant or abandoned properties. The neighborhood approach enables communities to comprehensively assess existing economic and environmental conditions associated with brownfield blight and impacted areas; identify and prioritize community supported redevelopment opportunities; and attract public and private investment. The types of areas where program resources are being applied include industrial/manufacturing zones, commercial corridors, mixed-use neighborhoods, downtowns and waterfronts.

Through the BOA Program, communities are empowered to:

- Address a range of problems posed by multiple known or suspected brownfield sites;
- Build community consensus on the future uses for the area with an emphasis on strategic sites that are known or suspected brownfields;
- Establish sustainable goals and objectives for area-wide revitalization and for redevelopment of strategic sites;
- Identify and establish the multi-agency and private-sector partnerships necessary to leverage assistance and investments to revitalize downtowns, neighborhoods, and communities;
- Address environmental justice concerns and promote environmental equity in areas that may be burdened by negative environmental consequences; and
- Engage in activities to implement the community's vision after BOA designation by Department of State.

It is expected that BOA Nominations developed locally through this program will then be submitted to the Secretary of State in support of a request for BOA designation. BOA designation conveys certain benefits to an area that promotes redevelopment consistent with the vision, goals and objectives outlined and reported in the BOA Nomination. Applications for pre-development and environmental site assessment activities are expected to implement the vision, goals and objectives of the State-Designated BOA.

The BOA Program is a reimbursement program. State assistance awarded and paid through the BOA Program shall not exceed 90% of the total eligible project costs set forth in the application and approved by the Department. Upon execution of a state-assistance contract, BOA Program grantees may request an advance payment of up to 25% of the total grant. Such advance payment requests are subject to the Department's approval and the availability of funds.

This Request for Applications is available at <https://dos.ny.gov/funding-bid-opportunities>.

Proposed projects that are part of the following initiatives will be looked upon favorably by the Regional Economic Development Councils:

Downtown Revitalization Initiative and Strategic Community Investment

Priority consideration will be given to proposals which demonstrate they will advance downtown revitalization and strategic place making through transformative housing, economic development, transportation and community projects that will attract and retain residents, visitors and businesses - creating dynamic neighborhoods where tomorrow's workforce will want to live, work, and raise a family. Projects should reflect the general principles of smart growth and sustainable development.

Improving Access to Child Care

Despite record investments in child care, many New Yorkers still struggle to access high quality child care. This issue forces families to choose between quality child care and employment or places families in the position to use unlicensed child care providers. Applicants should provide any information about their project that works to improve access to child care.

Environmental Justice

Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As we transition to a greener economy, it is imperative that no subset of the population be marginalized or left behind. Applicants should provide any information about how their project actively works to address these issues.

II. ELIGIBLE APPLICANTS

Eligible applicants are municipalities, community-based organizations and New York City community boards, as defined below:

Municipality – A municipality is defined as a city, village, town, county, local public authority, public benefit corporation, school district, or special improvement district, or an Indian nation or tribe recognized by New York State or the United States with a reservation wholly or partially within the boundaries of New York State.

Community Based Organization - A community-based organization must be a not-for-profit corporation under Section 501(c)(3) of the Internal Revenue Code at the time of application. In addition, its stated mission must be to promote reuse of brownfield sites or community revitalization within the geographic area in which the community-based organization is located; it must have 25 percent or more of its Board of Directors residing in the community in such area; and it must represent a community with a demonstrated financial need.

Community Board – A Community Board is unique to New York City and is defined and described in Section 2800 of the [New York City Charter](#).

Joint Applications

Two or more eligible applicants are encouraged to work in partnership and jointly apply for funding for a BOA project that would improve an area of mutual interest or concern. Joint applicants should identify the municipality, community-based organization, or community board that the Department should recognize as the primary applicant for all purposes, including contract award.

III. FUNDING OPPORTUNITY

The Department is making approximately \$3,500,000 available for BOA Program grants for the eligible activities identified in Section IV, below.

State assistance awarded and paid to a grant recipient shall not exceed 90% of the total eligible project cost.

The maximum for each grant awarded under this solicitation is \$300,000. There is no minimum State assistance request.

IV. ELIGIBLE ACTIVITIES

Three types of activities are eligible for funding as BOA projects:

- (1) Development of a BOA Nomination,
- (2) Undertaking Pre-Development Activities within a State-Designated BOA.
- (3) Phase II Environmental Site Assessments within a State-Designated BOA.

An application may include multiple projects, however they must all be for the same type of activity as listed above. Eligible applicants wishing to apply for more than one type of activity should submit separate applications, one for each activity type.

(1) Development of a BOA Nomination

A BOA Nomination is a study that consists of a community vision, goals and strategies for revitalization of an area affected by a concentration of known or suspected brownfields. A full Nomination provides an in-depth and thorough description and analysis -- including an economic and market trends analysis -- of existing conditions, opportunities, and re-use potential for properties located in the proposed Brownfield Opportunity Area with an emphasis on the identification and reuse potential of strategic brownfield sites that may be catalysts for revitalization. An integral part of a Nomination is a description of key findings and recommendations to promote area-wide revitalization and redevelopment of strategic sites, including specific projects, initiatives, regulations, and other actions. Nominations may also include, as appropriate, detailed analyses and recommendations to advance redevelopment of strategic sites such as conceptual site design, cost estimation, artist renderings, development of pro formas, and marketing strategies.

Achieving revitalization goals requires broad community support, strong partnerships, and sufficient local and regional capacity to overcome obstacles. Therefore, the preparation of a BOA Nomination is expected to include robust community and stakeholder engagement as well as specific actions to develop partnerships and build the local capacity necessary to realize implementation of the plan.

Applicants may apply for funding to prepare or complete a BOA Nomination that contains all the elements necessary to support a request for designation of the BOA by the Secretary of State and must commit to making such a request when the BOA Nomination is deemed complete by the Department of State.

Nomination elements required for designation of a BOA can be found in the BOA Designation Guidance, which is available on the Department's website at

<https://dos.ny.gov/system/files/documents/2020/09/boa-designation-guidance-fact-sheet.pdf>

A generic BOA work plan which describes the tasks necessary to prepare a BOA Nomination is also available at <https://dos.ny.gov/funding-bid-opportunities>

(2) Undertaking Pre-Development Activities within a State-Designated BOA

Applicants may apply for funding for pre-development activities within a BOA that has been designated by the Secretary of State. These activities should advance the goals and priorities for revitalization and redevelopment of the area as expressed in the BOA Nomination completed for the State-designated BOA. A list of State-designated BOAs is available on the Department website: <https://dos.ny.gov/brownfield-redevelopment>

Eligible pre-development activities include:

- a) Development and implementation of marketing strategies;
- b) Development of plans and specifications;
- c) Real estate services;
- d) Building conditions studies;
- e) Infrastructure analyses;
- f) Zoning and regulatory updates;
- g) Environmental, housing and economic studies, analyses and reports; and
- h) Public outreach.

Pre-development activities should be well-defined with each activity, or set of related activities, being organized as a separate project component in the proposed scope of work. Each component shall have clearly defined deliverables and a detailed budget.

(3) Undertaking of Phase II Environmental Site Assessments within a State-Designated BOA

The purpose of a Phase II Environmental Site Assessment (SA) is to gather reliable information about a property's environmental condition in order to guide the grantee in making an informed land use decision under the BOA Program. The ASTM standard for Phase II Environmental Site Assessments does not include the level of technical specificity required to select and design a remedy for the property, but it does provide flexibility in determining the level of assessment and is appropriate for the land use planning stage of the redevelopment process.

Applicants may apply for SA funding within a State-designated BOA. A list of State-designated BOAs is available on the Department website: <https://dos.ny.gov/brownfield-redevelopment>

For purposes of a SA, a site is defined around one or more areas of environmental concern and may include more than one contiguous tax parcel. The site must have definitive and identifiable boundaries. Each site for which SA funding is being sought must meet the criteria and conditions set forth herein. The completion of an environmental site assessment must advance the goals and priorities for revitalization and redevelopment of the BOA area. Phase II Environmental Site Assessments must meet the criteria established in the *Phase II Application for Site Assessment Supplement* and the following conditions.

To be eligible for a Phase II Environmental Site Assessment in the BOA Program, a site;

- cannot be on the Federal National Priority List;
- cannot be listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites as a Class 1 or 2 Site;
- cannot be a permitted Resource Conservation and Recovery Act site under ECL Article 27, Title 9. Interim status sites, however, are eligible;
- cannot be subject to an order for cleanup under Article 12 of the Navigation Law or Title 10 of Article 17 of

the Environmental Conservation Law. If the property is subject to a stipulation agreement, relevant information should be provided; however, property will not be deemed ineligible solely on the basis of the stipulation agreement;

- cannot be subject to an enforcement action under a State or Federal remedial program;
- must be owned by party that is not responsible for site contamination. The owner must be either a **volunteer** or a **municipality**, as defined below:
 - **volunteer** (as defined in the Brownfield Cleanup Program, 6NYCCR 375-3.2): an applicant other than a participant, including without limitation a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants, provided however, such person exercises appropriate care with respect to contamination found at the facility by taking reasonable steps to:
 - (i) stop any continuing release;
 - (ii) prevent any threatened future release; and
 - (iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination;
 - **municipality** (as defined in the Environmental Restoration Program, 6NYCCR 375-4.2 and 4.3(b)(1)): a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or tribal nation recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof. Such term shall not refer to a municipality that generated, transported, or disposed of, arranged for, or that caused the generation, transportation, or disposal of hazardous substance located at the proposed site.

A municipality is not considered a generator, transporter, or arranger:

- (i) for having rendered care, assistance, or advice in the course of an incident creating a danger to public health or welfare or to the environment as a result of any release of a contaminant or the threat of same; or
 - (ii) for having leased a site to another party that generated, transported or disposed of, or that arranged for or caused the generation, transportation or disposal of, any contaminant on such site unless such municipality knew that such other party generated, transported or disposed of, or arranged for or caused the generation, transportation or disposal of, such contaminant and failed to take any action to remediate, or cause the remediation of such contaminant;
- must be accessible to the applicant in order to perform the site assessment;
 - must be located within a State designated BOA.
 - must have been determined a "brownfield" by DOS during Step 2 of the BOA process. A "brownfield" is defined as any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant;
 - must require additional environmental information to determine technically and economically viable land

uses for the BOA; and

- may be contaminated as a result of an on-site or off-site source.

In determining site eligibility, the State will not consider the following:

- contamination of structures located at the site, due to stored materials, electrical appurtenances, lead paint, or asbestos, etc; or
- material not constituting “contaminants” as defined in 6NYCCR 375-1.2 (e.g. construction and demolition debris, abandoned consumer goods or material disposed at the site otherwise defined as solid waste as set forth in regulation).

Costs associated with the assessment of asbestos or lead paint inside a structure may be eligible if this information is required to determine technically and economically viable land uses for the BOA. However, if the scope of the site assessment is almost exclusively the assessment of indoor asbestos or lead paint, the proposed site assessment will not be eligible. In addition, no other costs associated with the assessment of indoor conditions (e.g. soil vapor) are eligible.

Department of State guidance on Phase II Environmental Site Assessments is found in the BOA *Site Assessment Supplement Package* which is available at <https://dos.ny.gov/funding-bid-opportunities>

Phase II Environmental Site Assessments (SA) applications will be evaluated on a pass/fail basis for eligibility and then evaluated per the scoring criteria outlined in Application Evaluation Criteria below.

Site eligibility for a SA in the BOA Program does not guarantee site eligibility in the New York State Brownfield Cleanup Program.

V. ELIGIBLE AND INELIGIBLE COSTS

Eligible Costs

Costs must be adequately justified and directly support the project. Proposed costs must be essential to project completion. Eligible costs include the following:

- (a) Personal Services** – Personal services include direct salaries, wages, and fringe benefits of grantee employees for activities related to project work, including project management and grant administration. Fringe benefits must be outlined in the application and include the organization’s documented rate.
- (b) Non-Personal Services** – Non-personal services include consultant/contractual services for direct project related costs, project management, and limited grant administration; project-related supplies and materials; necessary travel; and other goods and services required to complete the project.

Notes:

Project management activities may include, but are not limited to, oversight and coordination of tasks needed to produce contractual deliverables, coordination of steering committee activities, consultant procurement and oversight, public outreach, and developing or providing local and/or regional capacity to advance revitalization goals.

Grant administration may include, but is not limited to, activities undertaken to comply with grant budgeting, record keeping and reporting requirements, such as preparation and submission of payment vouchers and other documents required under the grant. Grant administration may not exceed 15% of the award amount or \$50,000, whichever is less.

Sub-contracts for consultant/contractual services should be competitively procured based on the applicable provisions of New York State General Municipal Law and additional requirements as described in this RFA.

Ineligible Costs

Ineligible costs include the following:

- (a) Indirect or overhead costs, such as rent, telephone service, general administrative support, computers, office equipment, general office supplies, general operations costs, membership fees, subscription costs.
- (b) Salaries and other expenses of elected officials.
- (c) Costs incurred outside of the contract term.
- (d) Costs that are not adequately justified or that do not directly support the project.

Notes:

Ineligible costs will be eliminated from the total project costs in the grant application.

VI. PRE-SUBMISSION REQUIREMENTS

Requirements for all Applications

All applicants must submit a resolution adopted by the applicant's governing authority that authorizes submission of the application and identifies the title of the applicant's authorized representative. A standard resolution template is available on the Department website at the following address: <https://dos.ny.gov/funding-bid-opportunities>

Requirements for all Applications for Development of a BOA Nomination

Applicants requesting funding to develop a BOA Nomination must comply with the following minimum community participation activities prior to submitting an application: (1) provide a public comment period of at least thirty (30) days on a draft application; and (2) hold a public meeting on the draft application. Documentation demonstrating compliance must be submitted with the application, including a copy of a public notice for the comment period and meeting, a record of comments received, and the public meeting attendance list and minutes or summary of the meeting.

Requirements for all Applications requesting Phase II Environmental Site Assessment in a State Designated BOA

Applicants requesting funding for Phase II Environmental Site Assessments within a State designated BOA must submit a completed *Site Assessment Supplement* form and related attachments for each site for which funding is being requested.

Requirements for all Applicants from a Community-Based Organization

A Community-Based Organization must register and be pre-qualified through the NYS Grants Gateway on or before the application due date. Such applicants will be required to submit documentation of registration and pre-qualification with the NYS Grants Gateway, to include: (1) the Document Vault Identifier (i.e., GDV-XXXXX-XXXX); and (2) the State Pre-Qualification Application Status Report. Information on this process is available at: <http://www.grantsreform.ny.gov/Grantees>

An application submitted by a Community-Based Organization for funding to develop a BOA Nomination must include a resolution of support from the city, town or village with planning and land use authority over the proposed BOA, except that in New York City, the resolution of support must be from the community board or boards for the district or districts in which the proposed BOA is located.

VII. AWARD METHOD

A total score of 100 points is possible for any application (see VIII. Application Evaluation Criteria for more information).

The Department will fund the highest scoring applications until the allocated funds are exhausted. Approximately \$3,500,000 is anticipated for awards for 2021 BOA Program grants.

The Department may make an award in whole or in part and may offer partial funding if a particular component is ineligible or not ready to move forward. The Department may offer partial funding to an applicant if its application cannot be fully funded within the funds remaining; if the applicant declines the partial funding, funding may be awarded to the next highest-scoring unfunded application. In the event that an awardee fails to satisfactorily negotiate a proper contract within a reasonable period of time, that funding may be awarded to the next highest-scoring unfunded application.

In the event that another NYS agency fully funds a high scoring project through the CFA process, the awardee will receive funding from only one state agency. The Department will work with other NYS agencies to ensure that duplication of funding does not occur. In the event that an applicant receives full funding from another agency, the Department reserves the right to award full or partial funding to the next highest scoring unfunded application.

The opportunity to be debriefed will be provided, upon request, to unsuccessful applicants. Requests must be made in writing within 15 business days of notification of status of award.

In the event unsuccessful applicants wish to protest the award resulting from this RFA, the applicants should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO), available on-line at:

<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

VIII. APPLICATION EVALUATION CRITERIA

Applications will be reviewed according to the specific criteria presented below.

Threshold Criteria

- a) The application must be submitted by an eligible applicant as previously defined.
- b) The application must be for an eligible activity as previously defined.
- c) Pre-submission requirements, as detailed in Section VI of this RFA, have been met.
- d) BOA Site Assessment Supplement (SA) Applications will be evaluated on a pass/fail basis for eligibility. SA applications that fail eligibility will not be evaluated under the Program Criteria and will be disqualified.

Applications submitted by ineligible applicants or where all eligible activities are ineligible will result in immediate disqualification of the application and the application will not be evaluated further.

Program Criteria (maximum 100 points)

Applications meeting the threshold criteria will be evaluated to assess the degree to which they meet all program criteria. “BOA project” or “project” used herein means the eligible activity or activities proposed for funding in an application.

(1) Applications to prepare a BOA Nomination: Presence and Impact of Known or Suspected Brownfields
(maximum 12 points)

- Extent to which the area demonstrates presence of known or suspected brownfields, including vacant, underutilized, deteriorated and abandoned properties.
- Extent to which evidence is presented of economic distress, risk to public health, or other negative impacts of the known or suspected brownfields on the proposed BOA.
- Extent to which area contains known or suspected brownfields that present strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

OR

(1) Applications for pre-development projects and phase II environmental site assessments within a State-Designated BOA: Community Vision and Strategic Opportunities (maximum 12 points)

- Extent to which the proposed project will advance the vision and goals of the BOA program as defined by the community in the BOA Nomination for the area.
- Extent to which the project is consistent with the objectives, desired redevelopment and priorities for investment stated in the BOA Nomination.
- Extent to which the project relates to strategic opportunities presented by brownfields to stimulate economic development, community revitalization or the siting of public amenities.

(2) Indicators of Economic Distress (maximum of 6 points)

The State-Designated BOA or the proposed brownfield opportunity area is characterized by one or more of the following:

- Poverty rate over 15 percent.
- Median family income less than 50 percent of the surrounding area's median income.
- Unemployment rate 125 percent or greater than the statewide unemployment rate.
- 25 percent or more of the area is vacant, abandoned, or otherwise available for industrial or commercial development.
- Located in a federally-designated [Opportunity Zone](#) or an [Environmental Zone](#) (En-Zone) as defined by the New York State Department of Environmental Conservation.
- Demonstrated disparity compared to the surrounding community when comparing income, property values, vacancy rates, or other relevant indicators of distress.

(3) Local Capacity & Partnerships (maximum of 6 points)

- An effective organizational and staffing structure exists to advance and complete the project.
- Support of the project by multiple entities, including but not limited to municipalities, community-based organizations, and/or NYC Community Boards is demonstrated.
- Project will be carried out jointly by a municipality and a community-based organization and/or NYC Community Boards in partnership.

(4) Public and Stakeholder Support (maximum of 6 points)

- Local leadership supports and is committed to the goals of the BOA project.
- Evidence is provided of public support for the project.
- Evidence is provided of support from stakeholder(s) directly impacted by the BOA project.

(5) Economic Value (maximum of 8 points)

- The project identifies explicit opportunities to assist the community with economic recovery from the impacts of the COVID-19 disaster.

- An ability to support small businesses with long-term economic recovery from the COVID-19 disaster is demonstrated.
- The project offers strategic opportunities to stimulate economic development through redevelopment of known or suspected brownfields.
- The project has potential to generate new and expanded economic activity in the proposed or State-Designated BOA and in the surrounding region.
- The project has potential to increase housing choice for new and existing residents.
- The project has potential to expand job opportunities and eliminate barriers to employment, especially in distressed and high-need areas.
- Planned or actual efficient use or protection of public investment in resources and infrastructure is described.
- Leverage or potential leverage of direct or indirect private investment is demonstrated.

(6) Environmental Value (*maximum of 6 points*)

- The project will promote positive public health outcomes and/or avoid or mitigate negative public health outcomes, especially in underserved and distressed communities, through the clean-up of significant brownfield sites and other activities.
- Proposed actions have the potential to mitigate the impacts of climate change through reduction of carbon emissions and/or increase in community resiliency.
- The project includes the potential to enhance, protect or restore natural resources and promote green infrastructure.

(7) Public Value (*maximum of 6 points*)

- The project supports a mix of land uses and concentration of new development in urban centers where infrastructure and public services are adequate.
- Potential to expand access to public open space, historic and cultural resources, and other public amenities in underserved areas is described.
- Dynamic, diverse neighborhoods may result from creating opportunities for development of transformative housing, transportation and community projects that include integration of all income, ethnic and age groups, including new Americans (immigrants and refugees) and veterans.

(8) Scope of Work (*maximum of 10 points*)

- A list of project deliverables is included, that is consistent with program objectives.
- The scope of work clearly defines what is to be done; where and how it will be done; who will do it; and when it will be completed.
- The application includes a realistic schedule and timeline that includes major tasks, milestones, and completion dates.
- An effective approach and process that will be followed to ensure ongoing and inclusive public participation and engagement during project development is described.
- Demonstrates that the public and stakeholders who would be affected by, or who can advance the project, will be engaged in project planning and implementation.

(9) Evaluation of Budget and Cost (*maximum of 20 points*)

- The application describes and documents how the budget and cost were determined and identifies the person(s) responsible for compiling the budget including the relevant experience and background of all parties and the method/approach used to arrive at estimates. (*Maximum of 5 points.*)
- The budget narrative clearly demonstrates amount, type, and source of eligible local match and demonstrates identified eligible match sources have been secured. (*Maximum of 5 points.*)
- The budget includes adequate detail for all project components involved, is cost-effective, presents necessary and realistic costs, and does not contain extraneous or ineligible expenses. Budget is accurate and thorough. Budget

narrative includes an explanation for the estimate of each budget line and clearly supports the applicant's need for financial resources requested to achieve project outcome. Budget narrative describes how the grant recipient will monitor expenditures during the life of the project to ensure that the project stays on schedule and within budget. *(Maximum of 10 points.)*

(10) Regional Support *(maximum of 20 points)*

- The REDC for the region in which the project is located, and which is comprised of local experts and stakeholders from business, academia, municipal, and non-governmental organizations, will rate the degree to which the project advances the regional strategic plan and aligns with regional priorities.

IX. NEW YORK STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT

Awards made through this grant program shall be consistent with the State's Smart Growth Public Infrastructure Policy Act (Environmental Conservation Law, Article 6), where applicable.

X. CONTRACT REQUIREMENTS

Standard Cost Reimbursement Contract

Each successful applicant must enter into a standard cost reimbursement contract with the Department, which includes this Request for Applications, the successful applicant's proposal, an agreed upon work program, any other attachments or exhibits, and the standard clauses required by the NYS Attorney General for all state contracts including Attachment A along with Article 15-A of the New York Executive Law.. The contract will be: 1) subject to approval by the Attorney General and State Comptroller; 2) required to submit final products in both hard copy and electronic format; 3) subject to payment only upon proper documentation and compliance with reimbursement procedures; and 4) subject to all other contractual requirements. (A copy of a standard contract along with Attachment A and Article 15-A is available from the Department.)

To ensure that funds are awarded to applicants that are ready to move forward, the Department of State reserves the right to rescind an award if the state contract is not signed and returned within a reasonable period of time. Expenses incurred prior to the start date of the state contract cannot be reimbursed.

Compliance with Procurement Requirements

Municipalities

All contracts by municipalities for service, labor, and construction involving not more than \$35,000 and purchase contracts involving not more than \$20,000 are subject to the requirements of General Municipal Law §104-b, which requires such contracts to comply with the procurement policies and procedures of the municipality involved. All such contracts shall be awarded after and in accordance with such municipal procedures, subject to the Minority or Women-Owned Business Enterprise (MWBE) requirements as set forth below in Appendix 1 and any additional requirements imposed by the State as set forth in Attachment C of the Master Contract.

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify to the Department of State that applicable public bidding procedures of General Municipal Law §103 were followed for all service, labor, and construction contracts involving more than \$35,000 and all purchase contracts involving more than \$20,000. In the case

of contracts by municipalities for service, labor, and construction contracts involving not more than \$35,000 and purchase contracts involving not more than \$20,000, the municipal attorney, chief legal officer or financial administrator shall certify that the procedures of the municipality established pursuant to General Municipal Law §104-b were fully complied with, in addition to the MWBE requirements.

The municipal attorney, chief legal officer or financial administrator for the municipality shall certify to the Department of State that alternative proposals and/or quotations for professional services were secured by use of written requests for proposals through a publicly advertised process. This certification will verify that the procurement requirements were met and ensure the prudent and economical use of public funds for professional services of maximum quality at reasonable cost.

Not-for-Profit Community-Based Organizations

The chief legal officer or financial administrator of the community-based organization, which is a grant recipient and serves as State Contractor, shall certify to the State that alternative proposals and quotations for professional services were secured by use of written requests for proposals through a publicly advertised process satisfactory to meet the MWBE requirements set forth below and to ensure the prudent and economical use of public funds for professional services of maximum quality at reasonable cost.

Community Boards (in New York City)

Chapter 70 of the New York City Charter provides for the creation of community boards for each community district that has been established in the City. Such community boards do not exist outside of New York City.

Each community board in New York City must comply with all laws, regulations, rules and procedures that govern each such board's procurement of contracts, goods and services, and shall certify compliance with such laws, regulations, rules and procedures to the State. Community boards must also certify to the State that all applicable MWBE requirements, including those that are set forth below, have been met.

Record Retention and Audits

The successful applicant shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract with the Department of State. Payment requests may be subject to periodic reviews. The successful applicant will be required to agree to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable, (ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable, (iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable, (iv) receipt and deposit of advances and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

Minority and Women-Owned Business Enterprise Participation

Applicants must submit the MWBE Compliance Form with their application confirming their understanding of the MWBE requirement and agreeing to show due-diligence and make good faith efforts to provide meaningful participation by MWBE's, whenever possible, if awarded the contract.

Contract Period

Subject to the continued availability of funds in the budget, the contract period shall not exceed five years from the start of the project. No extensions are anticipated. The earliest start date of contracts is April 1, 2021. Upon request by the grant recipient, with a showing of good cause, the contract start date may be set to a date in the future not to exceed 12 months beyond the contract execution date. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis.

XI. SATISFACTORY PROGRESS

Grant recipients must sign and return to the Department the BOA state assistance contract within a reasonable time after notification of funding award and receipt of the contract. In addition, the grant recipient must complete the project as set forth in the agreed upon work program for the contract. Failure to render proof of satisfactory progress in signing and returning the contract or to complete the project to the satisfaction of the State may be deemed an abandonment of the project and may cause the suspension or termination of any obligation of the State. Satisfactory progress toward implementation includes, but is not limited to, executing contracts and submitting status reports and payment requests in a timely fashion, retaining consultants, written certification of compliance with procurement requirements, completing plans, designs, reports, or other tasks identified in the work program within the time allocated for their completion. The Department may recapture awarded funds if satisfactory progress is not being made on the implementation of a grant project. Applicants should not submit applications if they do not expect to initiate the project within a reasonable time period after receiving an executed contract and will not be able to complete the project within the time period cited in the application.

XII. GENERAL SPECIFICATIONS

1. By signing the "Application Form" each applicant attests to its express authority to sign on behalf of the applicant(s) and to the accuracy of the information contained therein. Applications containing false or inaccurate information may be disqualified upon verification of information by the Department.
2. Contractors will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this contract will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
3. Submission of any application indicates the applicant's acceptance of all conditions and terms contained in this RFA, including the terms and conditions of the contract between the applicant(s) and the Department acting for and on behalf of the State.
4. Provisions upon default:
 - a) The services to be performed by the applicant shall be at all times subject to the direction and control of the Department as to all matters arising in connection with or relating to the contract resulting from this RFA.
 - b) In the event that the applicant, through any cause, fails to perform any of the terms, covenants or promises of any contract resulting from this RFA, the Department acting for and on behalf of the State, shall thereupon have the right to terminate the contract by giving notice of the fact and date of such termination to the applicant.
 - c) If, in the judgment of the Department, the applicant acts in such a way which is likely to or does impair or prejudice the interests of the State, the Department acting on behalf of the State, shall thereupon have the right to

terminate any contract resulting from this RFA by giving notice of the fact and date of such termination to the contractor. In such case, the contractor shall receive equitable compensation for such services as shall, in the judgment of the Department, have been satisfactorily performed by the contractor up to the date of the termination of this agreement, where such compensation shall not exceed the total cost incurred for the work in which the contractor was engaged at the time of such termination, subject to audit by the State Comptroller.

5. The Department reserves the right, including but not limited, to:
 - a) Reject any or all applications received in response to this RFA.
 - b) Withdraw the RFA at any time, at the agency's sole discretion.
 - c) Make an award under the RFA in whole or in part.
 - d) Disqualify any applicant whose conduct and/or application fails to conform to the requirements of the RFA.
 - e) Seek clarifications and revisions of applications.
 - f) Use application information obtained through site visits, management interviews and the State's investigation of an applicant's qualifications, experience, ability or financial standing, and any material or information submitted by the applicant in response to the Department's request for clarifying information in the course of evaluation and/or selection under the RFA.
 - g) Prior to the application due date, amend the RFA specifications to correct errors or oversights, or to supply additional information, as it becomes available.
 - h) Prior to the application due date, direct applicants to submit application modifications addressing subsequent RFA amendments.
 - i) Change any of the scheduled dates.
 - j) Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders.
 - k) Waive any requirements that are not material.
 - l) Negotiate with applicants responding to this RFA within the scope of the RFA to serve the best interests of the State.
 - m) If unsuccessful in negotiating a state contract with the selected applicant within an acceptable time frame, the Department may begin state contract negotiations with the next ranked qualified applicant(s) in order to serve and realize the best interests of the State.
 - n) Utilize any and all ideas submitted in the applications received.
 - o) Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an application and/or to determine an applicant's compliance with the requirements of the solicitation.
 - p) Waive or modify minor irregularities in applications received.
 - q) Make awards based on geographic distribution.
 - r) Not to fund an application that fails to submit a clear and concise work plan or budget.
 - s) Adjust or correct cost figures with the consent of the applicant if errors exist and can be documented to the satisfaction of the Department.
 - t) Award more than one contract resulting from this RFA.
 - u) In its sole discretion, determine the total number of awards to be granted pursuant to this RFA.
 - v) Offer partial or no funding to any applicant if its application cannot fulfill its proposed program within the funding restrictions herein.
 - w) Make additional awards if funding becomes available.
 - x) Require reporting on forms designed for use solely for this procurement.
 - y) Not to make any awards pursuant to this RFA. This RFA does not commit the Department to award any contracts, to pay the costs incurred in the preparation of a response to this RFA, or to procure or contract for services.

Appendix 1

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE-CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES, EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN, AND SERVICE-DISABLED VETERAN-OWNED BUSINESSES

I. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations the Department of State (Department) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of Department contracts.

Business Participation Opportunities for MWBEs

The Department’s New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) utilization goal is 30%. For purposes of this solicitation, the specific MWBE goal and the breakdown between the Minority-owned Business Enterprise (“MBE”) and the Women-owned Business Enterprise (“WBE”) utilization goals shall be established post award and set forth in the Department contract, in the Attachment B “Budget” (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that the Department may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation.

The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com/frontend/vendorsearchpublic.asp>. For guidance on how the Department will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the broker’s contract.

FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60 percent of the total value of the supplier’s contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and Department may withhold payment 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 proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals 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 respondent may arrange to provide such evidence via a non-electronic method by contacting the Department. As a contractor of New York State, you have a responsibility to utilize certified minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your solicitation, proposal or contract documents. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

Applicants are required to submit the MWBE Compliance Form with their application.

Additionally, successful applicants will be required to submit the following documents and information within ten (10) business days after the applicant receives notice from the Department that the grant is being awarded as evidence of compliance with the foregoing:

An MWBE Utilization Plan (**Form D**) or a Certification Letter (**Form D-1**) stating their commitment to show due-diligence to comply with the MWBE goals and requirements. Any modifications or changes to an accepted 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 the Department for review and approval.

The Department shall review the submitted MWBE Utilization Plan or Certification Letter and issue a written notice of acceptance or notice of deficiency within 20 days of receipt of utilization plan or certification letter.

If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department, at the address provided below, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the respondent and direct the respondent 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 proposal.

Please see details under “**Additional Notices and Explanations Regarding the MWBE Program and this Request for Applications.**”

Department may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan or certification letter;
- b) If a respondent fails to submit a written remedy to a notice of deficiency;
- c) If a respondent fails to submit a request for waiver; or
- d) If Department determines that the respondent has failed to document good faith efforts.

Successful applicant(s) 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 the Department, but must be made no later than prior to the submission of a request for final payment on the Contract.

Successful applicant(s) will be required to submit a quarterly M/WBE Contractor Compliance & Payment Report to the Department, 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 proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of the New York State Master Grant Contract, Section IV (J) - Equal Employment Opportunities for Minorities and Women.

The respondent is required to ensure that it and any subcontractors awarded a subcontract 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 respondent, 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.

Additionally, successful applicants will be required to submit the following documents and information within ten (10) business days after the applicant receives notice from the Department that the grant is being awarded as evidence of compliance with the foregoing:

- A. Submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement (**Form A**) to the Department.
- B. Submit a Workforce Utilization Report (**Form C**) and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Department on a quarterly basis during the term of the Contract, to the Bureau of Fiscal Management at: Email: dos.sm.mwbe@dos.ny.gov

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 subcontractors 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.

Additional Notices and Explanations Regarding the MWBE Program and Successful Applications to this Request for Applications:

If your project is selected for an award, you will be required to show due diligence to comply with all the MWBE contractual requirements, including meeting the goals for certified MWBE firms participation as stated in your Contract and in accordance with NYS Executive Law Article 15-A.

If an applicant chooses to move forward with a project prior to any award announcement, they are responsible for meeting MWBE requirements established by the State of New York. The requested plan, as described herein, is intended to help an applicant think about how to comply with the regulations and provide information showing their due-diligence to comply with the MWBE requirements.

Successful applicants notified by the NYS Contract System (System) that a record for the submission of the utilization plan has been created, must comply with this requirement by entering the Utilization Plan data in the System through the Statewide Utilization Management Plan (SUMP) module.

If you are unable to comply with the MWBE goals, you must request a waiver of these requirements by submitting to the Department the REQUEST FOR WAIVER FORM E, found on the Department funding page, for processing. Please note that the following information will be required to secure the waiver (all items may not apply to your case, but provide information and documentation for those that apply):

1. A DETAILED statement with the project description (any special characteristics, needs, specifications, etc.), and an explanation setting forth your basis and justification for requesting a partial or total waiver of the MWBE goals.

2. The names of general circulation, trade association, and MWBE-oriented publications in which you solicited certified MWBEs for the purposes of complying with your participation goals related to this Contract.
3. A list identifying the date(s) that all solicitations for certified MWBE participation were published in any of the above publications.
4. A list of all certified MWBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified MWBE participation levels.
5. Documentation of your search in the NYS Directory of Certified Firms (e.g.: Printouts, screenshots).
6. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation, if an identical solicitation was made to all certified MWBEs. Any information and/or documentation to support the efforts to follow up with the MWBEs.
7. Copies of responses to your solicitations received by you from certified MWBEs
8. A description of any contract documents, plans, or specifications made available to certified MWBEs for purposes of soliciting their proposals and the date and manner in which these documents were made available.
9. Documentation of any negotiations between you and the MWBEs undertaken for purposes of complying with the certified MWBE participation goals.
10. Any other information you deem relevant which may help us in evaluating your request for a waiver.
11. The name, title, address, telephone number, and email address of your representative authorized to discuss and negotiate this waiver request.
12. Copy of notice of application receipt issued by Empire State Development (ESD), if subcontractors are not certified MWBE, but an application has been filed with ESD.

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.

II. SERVICE-DISABLED VETERAN-OWNED BUSINESSES PARTICIPATION

Article 17-B of the Executive Law, enacted in 2014, authorized the creation of the Division of Service-Disabled Veterans' Business Development to promote participation of Service-Disabled Veteran-Owned Businesses (SDVOBs) in New York State contracting. The Service-Disabled Veteran-Owned Business Act recognizes the veterans' service to and sacrifice for our nation, declares that it is New York State's public policy to promote and encourage the continuing economic development of service-disabled veteran-owned businesses, and allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB), in order to increase their participation in New York State's contracting opportunities. To this effect, the Department has implemented a Veteran-Owned Businesses (SDVOB) Program, as mandated by Article 17-B.

To comply with the SDVOB Program goals of 6%, the Department strongly encourages grantees to make every effort, to the maximum extent possible, to engage certified SDVOBs in the purchasing of commodities, services and technology in the performance of their contracts with the Department. If SDVOB utilization is obtained, a quarterly SDVOB utilization report should be submitted to the Department with information of the utilization percentage achieved during that quarter. Contractor Reporting Forms are found at: <https://ogs.ny.gov/Veterans/>.

The Division of Service-Disabled Veterans' Business Development (DSDVBD) is housed within the New York State Office of General Services (OGS), and maintains a directory of the NYS Certified SDVOBs. For assistance with engaging SDVOB vendors in your contracts, please contact the Division of Service-Disabled Veterans' Business Development at the following email address: VeteransDevelopment@ogs.ny.gov, or the DOS Bureau of Fiscal Management – SDVOB Program at dos.sm.sdvob@dos.ny.gov. The directory of certified SDVOB vendors can be found at: https://ogs.ny.gov/Veterans/Docs/CertifiedNYS_SDVOB.pdf.