RFA #21-LWRP-05

New York State
Department of State
Office of Planning, Development & Community Infrastructure
Environmental Protection Fund
Local Waterfront Revitalization 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) public 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-LWRP-05 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 18th 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 to questions and will be incorporated into this Request for Applications.

Webinars: Pre-application webinars will available to provide an overview of the application process and program requirements. Further information is available at http://regionalcouncils.ny.gov/. All potential applicants are encouraged to view these webinars.

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 & Community Infrastructure
Attn: LWRP RFA Questions
99 Washington Avenue, Suite 1010
Albany, NY 12231
opd@dos.ny.gov

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

Letter of Support: Letters of support are not required but 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.
I. INTRODUCTION:

The Department is soliciting applications through the New York State Consolidated Funding Application (CFA) under Title 11 of the Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) from eligible villages, towns, cities located along New York’s coasts or designated inland waterways or counties (with the consent and acting on behalf of one or more eligible villages, towns, cities) to advance the preparation or implementation of strategies for community and waterfront revitalization through the following grant categories:

- Preparing or Updating a Local Waterfront Revitalization Program (LWRP)
- Preparing an LWRP Component, including a Watershed Management Plan
- Updating an LWRP to Mitigate Future Physical Climate Risks
- Implementing a Local Waterfront Revitalization Program or a completed LWRP Component

The Local Waterfront Revitalization Program, at its core, provides for more sustainable and resilient waterfront communities and as such can serve to support our communities’ economic development efforts to restart and continue the progress made before the impacts of COVID-19. The Department encourages eligible applicants whose coastal economies were impacted, or where a lack of public access to outdoor recreation created a challenge for communities, to submit projects that will support developing and strengthening these assets. Projects that create dynamic public areas, improve community parks and trails, and enhance recreational opportunities can provide a significant stimulus for the local economy and set the stage for community resiliency. Public investment in these types of projects can not only increase public access and enjoyment of the waterfront, but also spur private investment, create jobs, and grow the economy.

Applications to prepare or update an LWRP or LWRP Component may only include one LWRP per application. Applications for implementation projects should include one implementation project per application however, applications may include multiple implementation projects if the projects are similar in type/scope and clearly address a common critical issue identified in a relevant LWRP or LWRP Component funded by the Department. Separate grant applications should be submitted for a proposed planning project and a proposed implementation project. Applicants may submit more than one grant application.

The EPF LWRP is a reimbursement program. State assistance awarded and paid shall not exceed 75% of the total eligible project costs set forth in the application and as approved by the Department, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible project costs set forth in the application and as approved by the Department. Applicants must identify the amount, type and source of eligible local match, and demonstrate that it has been secured; failure to do so may result in a reduced award amount for qualifying applications.

Applicants are required to demonstrate that projects are ready to move forward. A contract period will not exceed five years. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis and only if significant progress has been demonstrated. Only applications for projects that can be completed within five years will be considered. Applicants will be required to prepare and submit a project work schedule and timeline that includes major tasks and milestones with completion dates for each.

This Request for Applications is available on the Department’s website: https://dos.ny.gov/funding-bid-opportunities

Proposed projects that are part of the following initiatives will be looked upon favorably:

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.

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:

- A village, town, or city located along New York’s coasts or inland waterways as designated pursuant to Executive Law, Article 42.
- A county with the consent and acting on behalf of one or more eligible villages, towns or cities.

An eligible applicant may apply for general planning needed to advance any of the eligible activities listed below in Section V.

Applicants may partner with counties or other organizations; however, only applications from eligible applicants will be evaluated for funding. Only the eligible applicant will be awarded a contract. Applications submitted by not-for-profit organizations and for-profit organizations are ineligible and will not be scored.

For applications submitted by a county, with the consent and acting on behalf of one or more villages, towns, or cities, the county is required to attach either a letter or resolution from each eligible municipality participating in the project which demonstrates their consent and support for the application.

III. FUNDING OPPORTUNITY:

The Department is making approximately $27,750,000 available to fund applications for the Local Waterfront Revitalization Program grants, up to $4 million of which is available for updates to existing LWRPs to mitigate future physical climate risks. Approximately $18 million of the available funding will be awarded for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

- densely-populated and have sustained physical deterioration, decay, neglect, or disinvestment; or
- where a substantial proportion of the residential population is of low income, or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities

IV. 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.

V. ELIGIBLE ACTIVITIES:

New York State’s approach to managing waterfront areas recognizes that while State government can promote development and provide protection for critical resources and environments, municipalities are in the best position to determine their own waterfront objectives and to adapt statewide approaches to meet specific local needs. Accordingly,
the Department, pursuant to the State Waterfront Revitalization and Coastal Resources Act, has encouraged waterfront communities to prepare Local Waterfront Revitalization Programs (LWRPs).

An LWRP is a comprehensive land and water use plan that expresses a vision for a community’s waterfront area, addresses State Coastal Policy to reflect local or regional needs, and outlines the organizational structure, local laws, and projects necessary to implement the program. The State Coastal Policies, set forth in the State of New York Coastal Management Program are enforceable coastal policies for managing the State’s coastal resources by preserving and using coastal resources in a manner that balances natural resource protection and the need to accommodate economic development.

New York communities are faced with increased risks related to climate change, such as more intense and frequent rain events and greater coastal storm flooding. The development of LWRPs provide the opportunity for communities to address risks from flooding, sea level rise, and storm surge through the incorporation of resilience measures such as the preservation and use of natural protective features and local laws that can guide appropriate land use to better avoid impacts of these natural hazards.

By preparing an LWRP, community stakeholders have the opportunity to evaluate local waterfront resources, develop goals and a comprehensive strategy for the best use of those resources, propose future projects, and adopt a local program that will guide appropriate development. Development of LWRPs can also provide a regional framework to cooperatively address revitalization issues and advance ongoing and emerging state initiatives including, but not limited to, regional economic development, community resilience and sustainability, smart growth, public health outcomes and environmental justice.

The benefits of preparing, and implementing an LWRP include development of a consensus-driven, unified vision for the community; technical assistance from the Department; increased chances for obtaining financial assistance from public and private funding sources; and, coordinated review between federal, State, and local agencies as appropriate for proposed projects and government actions within the LWRP boundary.

For project-specific planning, feasibility, design, and/or marketing needed to advance eligible activities, an eligible applicant must be currently preparing an LWRP or LWRP Component or have an approved LWRP or LWRP Component. The proposed project must be located within the LWRP boundary or LWRP Component boundary.

For construction of projects needed to advance eligible activities, an eligible applicant must have an approved or substantially completed LWRP or relevant LWRP Component. For the purpose of this solicitation, a substantially complete LWRP at a minimum must include complete draft LWRP Sections 1-4 which the public has been given two opportunities to review and comment on. The proposed project must be located within the LWRP boundary or LWRP Component boundary.

The list of coastal waterbodies and designated inland waterways is defined in NYS Executive Law, Article 42, Section 911 available at https://www.nysenate.gov/legislation/laws/EXC/911.

Preparing or Updating a Local Waterfront Revitalization Program (LWRP)

An LWRP is a comprehensive land and water use program that expresses a vision for the waterfront and addresses local conditions through State coastal policies to reflect local or regional needs and objectives and allow them to be enforced at the local level. Preparation of an LWRP is a principal means of implementing the State's Coastal Management Program and plays a significant role in addressing relevant issues for a given region or place, bringing to bear the resources and authorities of local governments and engaging the public in the management and use of resources having an ecological, physical, social, visual, or economic relationship to the waterfront.

The LWRP must plan for long term land and water uses for the local waterfront area and specify the legal
techniques for implementation. Any of the local land use controls used in New York State, such as zoning, subdivision review, site plan review, cluster, historic preservation, planned unit development, and environmental regulation, may be used to implement the program. It is required that local governments adopt a local consistency review law to require that local agencies carry out their actions in a manner consistent with the approved LWRP. When estimating the budget to prepare an LWRP, it is recommended that adequate resources are included to complete all tasks in the generic work plan, potential new or revised zoning/land use regulations necessary to implement the LWRP, and legal review.

The Guidance Manual for Preparing Local Waterfront Revitalization Program in the Coastal Area is available at: https://dos.ny.gov/system/files/documents/2020/02/lwrppreparationguidancemarch2019.pdf, the State coastal policies are available at: https://dos.ny.gov/system/files/documents/2020/02/coastalpolicies.pdf and the LWRP generic work plan which describes the tasks necessary to prepare a LWRP is available at: https://dos.ny.gov/funding-bid-opportunities.

Communities with an approved LWRP are encouraged to regularly update their LWRP to reflect changes in local conditions and community goals. An LWRP update can include a revision of all LWRP sections; focus on a specific section or issue; amend the LWRP boundary; reflect changes in land use; or identify new project proposals. An update to the LWRP will ensure the plan is current and well-connected to short and long-range community objectives.

Applicants may apply for funding to prepare, complete, or update an LWRP, using the LWRP Preparation Guidance, which may include:

- developing public consensus on a vision for the future of a region or a community through community visioning, public meetings and workshops, focus groups, charrettes, etc.
- identifying regional and local assets, potential risks, opportunities, and issues within the defined waterfront area with regard to: development and infrastructure; fish and wildlife habitats and resources; flooding and erosion hazards; resiliency; public access and recreation; historic and scenic resources; agricultural lands; energy and ice management; wetlands, water and air resources; and other social, cultural, economic and environmental interests
- developing goals that strike a balance between economic development and preservation to advance State coastal policies
- addressing and incorporating all applicable State coastal policies commensurate with local conditions and circumstances into a new or existing waterfront revitalization strategy or plan
- determining appropriate land and water uses to implement community goals and objectives for the waterfront
- recommending public and private projects to implement the LWRP
- providing the local organizational and legal structure, including the adoption of necessary zoning and local laws to implement the LWRP
- incorporating a NY Rising Community Reconstruction Plan or NY Rising Countywide Resiliency Plan, Long Term Community Recovery Plan or other resiliency plan

Preparing a Local Waterfront Revitalization Program Component

Preparation of an LWRP is a principal means of implementing the State's Coastal Management Program at the local level. While we encourage communities to complete a full LWRP inclusive of the consideration of all enforceable State coastal policies and local waterfront geographical areas, for some communities it may be appropriate to advance toward a complete LWRP in stages to address the most time sensitive and geographically significant priorities and policies.

LWRP Components will provide local governments with increased flexibility to better manage their coastal resources, help to develop local and regional capacity to effectively address revitalization issues through the LWRP process, and will further strengthen the NYS Coastal Management Program's and the Department’s ability to work in partnership with local governments.
An LWRP Component focuses on one or more topic(s) or section(s) of an LWRP or its waterfront, provided that the program constitutes a discrete and cohesive, yet comprehensive, treatment of the subject or subjects addressed, which may be related to environmental, social, regional growth management, or economic conditions. An LWRP Component may focus on one or more State coastal policies that are relevant to the particular conditions and priorities in the municipality, address a significant geographic portion of the municipality’s waterfront, or both.


Applicants may apply for funding for planning activities to prepare a component LWRP using the LWRP Preparation Guidance, which may include:

- addressing select State coastal policies commensurate with local conditions and circumstances,
- determining appropriate land and water uses to implement community goals and objectives for the waterfront in support of furthering select State coastal policies,
- developing public consensus on a vision for the future of a region or a community through community visioning, public meetings and workshops, focus groups, charrettes, etc.,
- identifying regional and local assets and potential risks, and opportunities and issues within the defined waterfront area with regard to one or more of the following, as appropriate: development and infrastructure; fish and wildlife habitats and resources; flooding and erosion hazards; resiliency; public access and recreation; historic and scenic resources; agricultural lands; energy and ice management; wetlands, water and air resources; and other social, cultural, economic and environmental interests that address one or more of the coastal policies,
- developing goals that strike a balance between economic development and preservation to advance State coastal policies,
- incorporating applicable State coastal policies into a prior waterfront revitalization strategy or plan,
- recommending public and private projects to implement the component LWRP, including public access projects and/or environmental protection projects,
- providing the local organizational and legal structure, including the adoption of zoning and local laws to implement the component LWRP and advance the feasibility of future completion of an LWRP.

**Updating an LWRP to Mitigate Physical Climate Risks**

Climate change, sea level rise, drought, increased frequency and intensity of storms, and the resultant effects from these weather related changes challenge communities and impact services on which residents and tourists depend. The health of communities rests on their ability to reduce or avoid harm and rebound from those impacts when they occur. Communities can move forward successfully only when they are prepared to respond quickly and strategically to changing conditions. An emphasis should be placed on regional strategy development.

Applicants with an adopted and approved, or partially completed, LWRP may apply for grant funding to update their LWRP, which may include updating coastal policies and projects, to mitigate physical climate risks. As part of updating an existing LWRP, an eligible community may consider planning activities including but not limited to the examples below:

- incorporation of an NY Rising Community Reconstruction Plan or NY Rising Countywide Resiliency Plan, Long Term Community Recovery Plan or other resiliency plan;
- assessment of risks associated with coastal/riverine flooding and erosion including impacts to wetlands, habitats, and other natural resources;
- assessment of risks to critical infrastructure and systems such as water supply, sewage treatment plants, combined sewer overflows, electric utilities, transmission lines, dams, shoreline stabilization infrastructure and other in-water structures, and transportation systems;
- assessment of potential impacts to economic sectors including recreation, tourism and agriculture.
• assessment of relevant landscape attributes such as impervious surface area, vegetated stream buffers, water storage capacity, and forested land cover to improve resilience
• identification of strategies related to climate change/drought/sea level rise adaptation that can be implemented through both public and private actions
• identification of severe weather mitigation measures to reduce economic risk associated with or attributable to inaction
• identification of strategies to make health and social services more resilient on a daily basis and responsive during an emergency event
• identification of strategies/projects that will reduce the vulnerability of infrastructure to severe weather events
• identification of opportunities for modifying existing or developing new laws, regulations, policies and practices to reduce a community's vulnerability to natural hazards and climate change impacts and improve emergency preparedness, pre-weather event management or response protocols
• creation of development tools that optimize land use patterns to meet the needs of vulnerable populations and future growth demands
• identification of public education efforts concerning potential long term effects from severe weather event damage such as mold, desiccation, contaminated soils and aquifer impacts
• incorporating New York State sea level rise projections into local plans and projects
• consider issues such as risk assessment, combined benefits, critical facilities, value to the community, public health outcomes, and coordination of timing with other improvements within a regional context

Additional climate change and resilience resources are available at: http://opdgig.dos.ny.gov/#/focus/resilience.

**Implementing a Local Waterfront Revitalization Program or Local Waterfront Revitalization Program Component**

Applicants may apply for implementation funding for activities on publicly-owned property including but not limited to:

- construction projects necessary to implement an LWRP or LWRP Component
- site-specific community, waterfront redevelopment, and resiliency projects including design, construction and/or implementation activities related to identified projects in a comprehensive redevelopment program:
  - existing conditions analysis;
  - preparation of concept plans, site redevelopment strategies and RFP for redevelopment projects;
  - project-specific design, cost estimating, construction and permitting documentation;
  - site preparation and construction of public amenities and infrastructure; trails, launch sites and directly related infrastructure and improvements;
  - creation, expansion, or improvement of accessible parks, public gathering spaces and entertainment amenities;
  - adaptive reuse of underutilized and abandoned buildings in public ownership;
  - acquisition due diligence (e.g., title work, appraisals, surveys);
  - development of design guidelines and standards;
  - streetscape and gateway improvements, including but not limited to: pedestrian walkways, sidewalks, bike lanes and multi-use trails; crosswalks and other pedestrian safety enhancements, directional, informational signage; lighting, street trees, benches, planters, bicycle racks, trash receptacles, landscaping, and building facades;
  - installing or ensuring access to secure bike or car parking near transit hubs or shuttle services;
- project-specific planning, feasibility, design, marketing or education (Scope of work for design projects should include completion of final design, permitting and bid documents.)
- developing regional, intermunicipal, or local Geographic Information Systems to improve management of coastal areas and resources, and improve impact prediction and assessment and mitigation and adaptation planning
- marketing, promotion, and economic feasibility and resiliency studies including marketing campaigns, brochures, website design;
- establishment of cultural, historic, arts, and entertainment districts
- implementation of priority actions to improve community resiliency and reduce risks associated with sea level rise, erosion, storm surge and flooding
- amendment or adoption of local land and water use controls to improve community resiliency to storm events and sea level rise
- incorporate climate resilience vision, goals and strategies into local plans and projects
- development of educational outreach/training materials and programs to improve community resiliency to severe weather and sea level rise impacts
- engineering, design, and/or construction of projects to make public facilities more resilient to potential severe weather and sea level rise impacts
- projects for the conservation, restoration, and enhancement of natural protective features and processes such as flood plains, wetlands, vegetated buffers, living shorelines, dunes and sediment transport
- green infrastructure projects that address water quality and stormwater management such as rain gardens, bioretention areas, and porous pavement
- advancement of projects related to building or improving community resiliency that advance LWRP policies.
- advancement of projects which celebrate the Bicentennial of the Erie Canal by creating new waterfront public access sites or improving and/or expanding existing sites along the NYS Canal System.

Applications to fund design and construction of wastewater treatment infrastructure or herbicide application are not eligible for funding and will not be scored.

The generic work plan which describes the tasks necessary to implement design and construction projects is available at: https://dos.ny.gov/funding-bid-opportunities. Approved LWRPs are listed at: https://dos.ny.gov/local-waterfront-revitalization-program

**LWRP Component: Watershed Management Plan (Planning or Implementation)**

A watershed management plan is a type of LWRP Component that produces a comprehensive plan to protect and restore specific waterbodies and their watersheds by identifying and prioritizing land uses and capital projects to reduce point and nonpoint source pollution, and protect or restore water quality, tributary corridors and aquatic habitats. As significant contributing areas surrounding and draining into a waterbody generally lie within more than one municipal jurisdiction, the preparation of cooperative, intermunicipal plans for a specific watershed can be an effective way to achieve local, regional and statewide goals. These plans can form the factual basis for the LWRP inventory and supports policy explanations dealing with water quality and water resources.

Local business, recreation, tourism, agriculture, industry, and economic development are dependent on high-quality water resources. Often, for communities surrounding a lake or embayment or those bordering a river or stream, good water quality significantly contributes to their economy. Regions are similarly dependent on their natural assets. Guiding activities to protect and promote natural and economic assets on an intermunicipal, watershed basis can be an effective way to make the most of human and financial resources to address concerns and to achieve shared goals. Networking with experienced local governments, agencies, and organizations leads to efficiencies that minimize the costs of protecting and restoring natural assets. The Department’s guidebooks on waterfront revitalization and watershed planning are available at https://dos.ny.gov/library.

Funds are being made available for the preparation and implementation of intermunicipal plans that identify and assess key assets, problems, threats, and municipal land use development controls and practices, emphasizing water quality improvement, protection, and restoration. Projects funded under this category are expected to have significant regional benefits.
Planning

Applicants may apply for grant funding to prepare or update an LWRP Component focusing on watershed management, that includes:

- identify connections between water quality protection, waterfront revitalization, and climate change mitigation and adaptation
- conducting public participation to develop consensus on issues and actions needed to advance revitalization and water quality goals
- inventorying, analyzing and characterizing the watershed including land cover, land and water uses, and infrastructure
- identifying and assessing key natural, cultural and economic assets
- identifying problems, impairments, and threats including nonpoint and source water impairments, invasive species, chronic flooding, harmful algal bloom, etc. and assessing their causes
- assessing and modeling of nonpoint source pollution to identify impairments including onsite waste water treatment systems and stormwater
- assessing land and water use controls (laws, programs and practices) to protect water quality and guide appropriate development
- quantifying the benefits of high water quality to local areas and the regional economy
- identifying issues and opportunities
- preparing strategies to protect water quality and promote sustainable economic development and community revitalization
- identifying local, state and other technical and financial resources needed for implementation of proposed projects and actions
- planning for the protection and promotion of natural assets on an intermunicipal watershed basis
- prioritizing projects and actions on an intermunicipal basis to improve and protect water quality
- developing systems to track implementation and measure and report on success
- preparing of a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) contained in an existing Watershed Management Plan or one under preparation

Implementation

Applicants may apply for implementation funding for activities including but not limited to:

- implementation of priority actions to protect and restore water resources
- amendment or adoption of local land and water use controls to provide coordinated watershed management for protecting water quality
- development of education, outreach/training materials and programs to reduce causes of impairments and threats to water quality including the ecological and financial costs of nonpoint and source water impairments, invasive species, chronic flooding, and harmful algal blooms
- advancement of projects that preserve or restore natural landscapes that protect water quality and catalyze waterfront revitalization including advancing green infrastructure projects that lead to the preservation or restoration of natural landscapes, such as forests, floodplains and wetlands, and/or the reduction of watershed imperviousness and preservation of groundwater infiltration
- feasibility analysis, design or construction water quality projects
- public access projects
- environmental protection projects

Applications to fund design and construction of wastewater treatment infrastructure or herbicide application are not eligible for funding and will not be scored.
VI. REQUIREMENTS FOR IMPLEMENTATION AND CONSTRUCTION PROJECTS

For design and construction projects, the applicant must identify the current legal owner(s) of the site where improvements will be implemented. Grant funded design and construction work must be performed on public property or where a permanent public interest, such as an easement (e.g. public access, conservation) has been established, and the predominant purpose is to provide a public benefit. The applicant must attach proof of site control and/or permanent public interest. Applications that do not include this documentation will be found ineligible and will not be scored.

Construction projects must be in compliance with zoning and other applicable land use regulations. Property where improvements are made must remain available to the public and provide direct public benefit for the intended useful life of the project. Projects intended to be open to the public must be open to the general public and not limited to residents of the municipality receiving a grant. Signage to this effect must be provided at these sites. Where improvements are made to a building, access must remain available to the general public and provide a direct public benefit tied to waterfront revitalization.

Property improved with EPF LWRP grants that are sold or transferred out of public ownership and control prior to expiration of the intended useful life will require that grant funds be returned to the Department.

It is required that project design and construction be undertaken under the supervision of an architect and/or engineer licensed to practice in the State of New York. In addition, proper certification from a licensed architect or engineer, as appropriate to the task, will be required for the preparation of designs and specifications and for the submission of as-built plans upon completion of the project.

In addition to responsibility for compliance with local regulations, the grant recipient is responsible for complying with applicable State and Federal laws and regulations, including, but not limited to:

- State Environmental Quality Review Act;
- State Freshwater and Tidal Wetlands Acts;
- US Army Corps of Engineer permits;
- Coastal Erosion Hazards Areas Act;
- Floodplain Management criteria;
- State and Federal laws and regulations for Historic Preservation; and
- Coastal Zone Management Act (federal)
- Waterfront Revitalization of Coastal Areas and Inland Waterways (NYS Executive Law Article 42)

For construction only projects, the applicant is required to submit draft or final design documents with the grant application. Construction projects located within the New York State Coastal Area boundary must be consistent with State Coastal Policies or LWRP coastal policies if the LWRP has been adopted by the municipality and approved by the New York State Secretary of State.

Prior to the start of construction, the successful applicant will be required to install a sign satisfactory to the Department identifying the Department’s funding of the project. The project sign will need to remain in place for the intended useful life of the improvements undertaken.

VII. FUNDING AND BUDGET GUIDANCE

Determining Total Eligible Project Cost and State Funding Request

When estimating the total eligible project cost, the applicant should calculate the cost to complete each task included in the project scope of work which may include costs associated with project management and grant administration. As a reference, DOS generic work plans which describe tasks necessary to prepare an LWRP and implement design and construction projects are available at: https://dos.ny.gov/funding-bid-opportunities. The budget may only include
eligible costs described below which directly support the project scope of work. Applicants are encouraged to obtain initial project quotes from a consultant with relevant professional experience and background to inform the budget.

Total Eligible Project Cost * % State Funding (either 0.75 or 0.85) = State Funds Requested

For example, if the total eligible project cost is $200,000, the State Funds Requested would be $150,000 and the Local Match would be $50,000.

$200,000 * 0.75 = $150,000 State Funds Requested

$200,000 * 0.85 = $170,000 State Funds Requested for projects meeting Environmental Justice criteria (see below)

The minimum State assistance request per grant application is $50,000 and the maximum State assistance request is $5 million. Applications requesting under $50,000 will be disqualified and will not be scored.

Eligible Costs

Costs must be adequately justified and directly support the scope of work for the proposed project. Proposed total project costs, including match components, must be essential to project completion. All costs will be paid on a reimbursement basis and must be documented.

Grant funds may be used for the following costs associated with the scope outlined in the application:

**Personal Services** – including direct salaries, wages, and fringe benefits for activities related to project work by municipal employees, including project management, capacity building, and grant administration. Fringe benefits must be outlined in the application and include the organizations’ documented rate.

**Non-Personal Services** – including supplies and materials, travel, equipment, consultant/contractual services for direct project related costs, project management, capacity building, limited grant administration, and other goods and services.

Equipment – Equipment purchases will only be considered as an eligible cost if the equipment is essential to accomplish tasks included in project scope of work and is demonstrated to be more cost-effective than renting or leasing the equipment. The application should list each piece of equipment to be purchased with an estimated cost and how it will be used to accomplish project tasks. Equipment purchased with EPF LWRP grant funding cannot be sold without prior approval from the Department. If equipment purchased with EPF LWRP funds is sold without DOS approval, the Department may require that grant funds be returned to the Department. Equipment usage may only be used as local match.

Project management activities may include oversight and coordination of tasks needed to produce contract deliverables, coordination of Project Advisory Committee activities, consultant procurement and oversight, public outreach and providing technical assistance.

Capacity building may include: investment in existing staff, such as training, or automating systems that will improve a community’s ability to carry out projects and/or deliver programs funded under this RFA; or developing sustainable organizational capacity, such as through creating and recruiting new positions or enlisting external professional assistance to oversee revitalization efforts. Allowable activities under capacity building shall be within the scope of the RFA and undertaken in direct furtherance of the purpose of the grant application.

Grant administration activities may include preparation of reports, vouchers, contract related administration and compliance with grant record keeping and reporting requirements. Grant administration may not exceed 15% of the award amount or $50,000, whichever is less.
Land acquisition – land acquired (e.g., purchase or donation) may only be used as local match for projects that include construction and where the construction occurs on the acquired property. Land must be acquired within three years prior to the contract start date or within the executed contract term. Land acquisition is not eligible for match for projects involving only design and engineering. A map identifying the property, and if available, a current appraisal report documenting the property value and a copy of the recorded deed conveying title and ownership must be submitted with the application.

Ineligible Costs

The following costs will neither be accepted as the required local match nor reimbursed with grant funds:

- **Indirect or overhead costs of the municipality** such as rent, telephone service, general administrative support, computers, office equipment, general office supplies, general operations costs, membership fees, subscription costs.

- **Salaries and other expenses of elected officials**

- **Fund raising events/expenses**

- **Federal funding**

- **Other Environmental Protection Fund awards**

- **Land acquisition (except as noted above)**

- **Taxes, insurance, fines, deficit funding**

- **Bond interest and associated fees.** The interest associated with a Bond or Bond Anticipation Note (BAN) cannot be calculated into project cost, whether for reimbursement or local match.

- **Contingency costs**

- **Lobbying expenses**

- **Cost incurred prior to the contract start date**

- **Costs that are not adequately justified or that do not directly support the scope of work for the proposed project**

Failure to adequately justify direct project costs will render costs ineligible. Ineligible costs will be eliminated from the total project costs in the grant application.

Local Match

State assistance awarded and paid shall not exceed 75% of the total eligible cost for the project, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible cost for the project. The total eligible cost of the project is the total of costs set forth in the grant application, less any federal assistance and other state assistance from the Environmental Protection Fund. In addition, the Environmental Protection Fund grants provided under this program may not be used as the local match for any federal or State grants without explicit written permission from the Department. Local match must be outlined in the application for consideration. State assistance payments will be made to grant recipients based on actual expenditures for eligible costs up to the amount of the grant awarded.
Volunteer services included in the local match are limited to those that are required to complete project tasks. Volunteer services must be listed in the application. Documented volunteer services (non-professional or administrative) may be valued at up to $15.00 per hour. Credit for project related volunteer services requires submission of detailed accurate records using Department approved forms to account for volunteer services to be included as local match. Failure to do so will result in non-approval of accrued volunteer hours for documented match.

Paid and unpaid donated professional services included in the local match are limited to those that are required to complete project tasks and only when services provided are in direct relation to the profession of the individual providing these services. Donated professional services must be listed in the application. Professional or technical services, such as engineering, legal, design, planning, and project management services will be valued at a rate of $60.00 per hour. Construction and other labor services will be valued at the prevailing wage rate set for the locality where the work is performed. Applicants must provide a description of the work to be undertaken by each individual and the reason for using a donated professional services rate rather than the volunteer services rate in the grant application.

Donated services that are not directly related to a profession will be considered as local match at the volunteer services rate. In all cases, detailed accurate records must be kept using Department approved forms to account for services to be included as local match.

Land acquisition – As detailed above, land acquired (e.g., purchase or donation) may only be used as local match for projects that include construction and where the construction occurs on the acquired property.

Environmental Justice

NYS Environmental Conservation Law § 54-1101 and NYS Executive Law § 42-918 dictate the local match requirements for the Department’s Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) grants. These laws stipulate that state assistance awarded and paid shall not exceed 75% of the total eligible project costs set forth in the application and as approved by the Department, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible project costs set forth in the application and as approved by the Department. For the purposes of determining local match rates for EPF LWRP awards funded under this solicitation, reference Potential Environmental Justice Area mapping created by the Department of State, Office of Planning, Development, and Community Infrastructure available on [https://dos.ny.gov/funding-bid-opportunities](https://dos.ny.gov/funding-bid-opportunities). This mapping includes Potential Environmental Justice Areas delineated by the NYS Department of Environmental Conservation using criteria described in DEC Commissioner Policy 29 on Environmental Justice and Permitting (CP-29) and additional areas delineated by the NYS Department of State, closely following the criteria described in CP-29, using the 2017 American Community Survey 5-Year Estimates.

Listed below is the Department policy used to determine if a CFA applicant is eligible to receive state assistance at a rate of 85% of the total eligible project cost:

- The Project Funding and Program Budget section in the CFA should clearly indicate the applicant is seeking State funding from the Local Waterfront Revitalization Program in the amount equal to 85% of the total project cost. This should also be clearly indicated in the LWRP Budget Summary & Detail spreadsheet, submitted as an CFA attachment.
- For applications to prepare or update an LWRP for one municipality, a portion of the LWRP boundary area must meet the environmental justice criteria for the grant to receive state assistance of 85% of the total project cost.
• For applications for design and construction projects, a portion of the project must be located within an Environmental Justice Area for the grant to receive state assistance of 85% of the total project cost.
• For applications that include multiple municipalities, every municipality must meet the Environmental Justice criteria for the grant to receive state assistance of 85% of the total project cost.
• Department GIS analysis must confirm the project is located within a Potential Environmental Justice Area as mapped by the Department on https://dos.ny.gov/funding-bid-opportunities. Confirmation will be determined during the application review.

Sub-contracts

Sub-contracts should be competitively procured based on the applicable provisions of New York State General Municipal Law. Bids should be inclusive of all costs related to the project, or portion thereof. Bids can be structured as deliverable based or line item (reimbursement) costs. Bid formats cannot be a mixed format.

VIII. AWARD METHODOLOGIES

Each application will be reviewed for eligibility and, if determined eligible, will be scored according to the application evaluation criteria. Applications deemed ineligible will not be scored.

A total score of 100 points is possible for any application, of which up to 80 points is derived from program criteria and 20 points from the Regional Economic Development Council (REDC) endorsement. An application must score a minimum of 50 program criteria points out of a possible 80 points from the Department of State review to receive an award. REDC points are based on regional economic priorities and are assigned by the REDCs.

Approximately $27,750,000 million is anticipated for award for this procurement, with up to $4 million dedicated for updates to existing LWRPs to mitigate future physical climate risks. Approximately $18 million of the available funding will be awarded for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

• densely-populated and have sustained physical deterioration, decay, neglect, or disinvestment; or
• where a substantial proportion of the residential population is of low income, or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities

Award Methodology for Applications for Updating an LWRP to Mitigate Future Physical Climate Risks

Applications received for updating existing LWRPs for the purpose of mitigating future physical climate risks, will be scored within this grant category and funds will be awarded to eligible projects in rank order. Any remaining funds from this grant category will be utilized to fund applications received for other grant categories.

Award Methodology for Applications for Other Grant Categories

Applications received under other grant categories - preparing or updating a LWRP; preparing an LWRP Component, including a Watershed Management Plan; or Implementing an LWRP or completed LWRP Component – will be scored and funds will be awarded in rank order, to applications which receive a minimum of 50 program criteria points from the Department of State review, until available funds are exhausted.

The Department may make an award under the RFA in whole or in part and may offer partial funding if a particular phase of a project is 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 amount 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 bidders wish to protest the award resulting from this RFA, bidders 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/.

IX. APPLICATION EVALUATION CRITERIA

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

Minimum Criteria

Eligible applicants are villages, towns, cities located along New York’s coasts or designated inland waterways or counties with the consent and acting on behalf of one or more eligible villages, towns, or cities. Applications will also be assessed to determine if the proposed project is an eligible activity and to ensure that the applicant has documented the ability to provide the required local match.

For project-specific planning, feasibility, design, and/or marketing needed to advance eligible activities, an eligible applicant must be currently preparing LWRP or LWRP Component or have an approved LWRP or LWRP Component. The proposed project must be located within the LWRP or LWRP Component boundary.

For construction of projects needed to advance eligible activities, an eligible applicant must have an approved or substantially completed LWRP or relevant LWRP Component. The proposed project must be located within the LWRP boundary or LWRP Component boundary.

Grant funded design and construction work must be performed on public property or where a permanent public interest, such as an easement (e.g. public access, conservation) has been established, and the predominant purpose is to provide a public benefit. The applicant must attach proof of site control and/or permanent public interest. Applications that do not include this documentation will be found ineligible and will not be scored.

Failure to meet these criteria will result in immediate disqualification of the application, which will not be further evaluated.

Program Criteria (maximum of 80 points)

Applications will be evaluated to assess the degree to which they meet the elements of each criterion.

The program criteria (with total available points) and elements are:

Local Waterfront Revitalization Program Implementation (maximum of 8 points)

- Project will implement a Local Waterfront Revitalization Program or an LWRP Component including design and/or construction projects that create dynamic public areas, improve community parks and trails, and enhance recreational opportunities.

Public Engagement and Partnerships (maximum of 4 points)
• Describes an effective approach and process that will be followed to ensure ongoing public participation and engagement during project development, including the involvement of partnering municipalities and the general public
• 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
• Demonstrates support from stakeholder(s) directly impacted by project
• Creates or advances regional, intermunicipal, intergovernmental, public, private, or not-for-profit partnerships

Local Capacity and Previous Performance (maximum of 4 points)
• Demonstrates that an effective organizational structure exists to advance and complete the project
• Previously demonstrated capacity and effective organizational structure to manage more than one EPF LWRP project (Only pertains to applicants which have one or more open EPF LWRP contracts)
• Demonstrated high quality performance under previous EPF LWRP contracts, timely submission of contract deliverables, status reports and payment requests (Only pertains to applicants which have had previous EPF LWRP contracts)
• Demonstrated successful completion of EPF LWRP or other State grant awards (Only pertains to applicants which have had previous EPF LWRP or other State grant awards)

Public Benefit (maximum of 20 points)

Regional Significance (maximum of 4 points)
• Improves or protects natural, cultural or economic resources of regional significance
• Consistent with State coastal policies
• Ensures an appropriate balance between development, open space and natural resource protection within the regional context
• Advances efforts to resolve shared issues through creative intermunicipal partnerships
• Redevelops and/or revitalizes a regional center
• Provides a public facility of greater than local importance that will attract visitors within the region
• Advances the completion or implementation of a plan or strategy that addresses critical issues and opportunities of regional significance
• Advances regional strategies addressing carbon reduction/abatement, energy efficiency or renewable energy

Local Significance (maximum of 4 points)
• Advances an approved or substantially completed LWRP, or LWRP Component
• Creates or advances long-term community revitalization goals and capitalizes on assets, or identifies opportunities for addressing problems documented in an existing LWRP, LWRP Components, or Designated Brownfield Opportunity Area Plans where applicable
• Advances completion of a new phase of a project previously funded by EPF LWRP
• Creates or implements a plan for community resiliency
• Protects, preserves, enhances or restores archeological, historic and/or cultural resources
• Implements a public amenity that is an identified priority for a community
• Addresses environmental justice issues
• Advances the completion or implementation of a plan or strategy that addresses critical issues and opportunities of local significance

Public Value (maximum of 4 points)
• Improves or expands water dependent or water-enhanced public recreation opportunities or facilities
• Incorporates and advances pedestrian, bicycle and paddling trails that connect people to parks, nature and public spaces; and accessible neighborhood parks
• Improves or expands visual/physical access to public waterfront resources, provides new/enhanced public spaces, or enhances community character/visual environment
• Advances the completion of a plan or strategy that enhances the quality and availability of public resources within a community or region, including improving, protecting, and restoring water quality
• Ensures predictability in land use regulations and procedures or facilitates the siting of water dependent uses and facilities
• Promotes or implements access strategies that include integration of all income, ethnic and age groups
• Promotes positive public health outcomes and/or avoids or mitigates negative public health outcomes

Resiliency & Sustainability (maximum of 4 points)
• Improves community resiliency to a changing climate, including both adaptation and mitigation strategies to proactively address risks and reduce vulnerabilities and seeks solutions that provides multiple benefits and addresses multiple goals
• Incorporates and advances the benefits of nature through preservation and restoration of natural landscapes, and/or the use of green infrastructure and green infrastructure policies that reduce watershed imperviousness, and preserve groundwater infiltration
• Utilizes non-structural or natural-based measures approaches to promote shoreline resiliency. Only utilizes structural measures where non-structural or nature-based alternative measures have been proven to be inadequate to protect the principal use.
• Ensures that government decision-making is based on sound science and considers cumulative effects
• Promotes a mix of land uses and concentrates new development in urban centers where infrastructure and public services are adequate
• Provides a framework that encourages sustainable development or redevelopment of communities in appropriate locations outside of flood prone areas
• Incorporates consideration of sea-level rise, storm surge and flooding in project design to make public facilities more resilient
• Incorporates and advances carbon reduction/abatement, energy efficiency or renewable energy

Natural Resources (maximum of 4 points)
• Promotes conservation and protection of ecosystem integrity
• Protects, enhances or restores habitats including designated significant coastal fish and wildlife habitat, or natural protective features (wetland, floodplain, active river area, beach, dune)
• Protects, enhances or restores a scenic area of local or statewide significance
• Protects agricultural land as a resource that provides for farmland uses and open space
• Implements New York State’s Coastal Nonpoint Pollution Control Program, or otherwise protects groundwater or surface water quality and hydrology
• Advances the completion of a plan or strategy that protects, restores, or enhances natural resources

Economic Value (maximum of 6 points)
• Generates economic activity, creates immediate and future jobs, offers realistic economic development potential, or contributes to restoration of municipalities’ tax bases
• Advances the completion of a plan or strategy that enhances economic vitality in a community or region
• Provides for downtown/hamlet revitalization
• Supports water-dependent commercial and industrial uses, tourism development or agriculture
• Offsets municipal expenses by protecting ecosystem services
• Supports economic development to offset COVID-19 economic impacts
• Complements related activities and projects, and leverages funding under the Environmental Protection Fund, other New York State grant programs, federal grant programs, or other sources of public, not-for-profit and private funds
• Makes efficient use of/protects public investment in resources and infrastructure
Implementation (maximum of 18 points)

Scope of Work (maximum of 6 points)
- Clearly defines what is to be done, where and how it will be done, who will do it, and when it will be completed
- Identifies a set of clear and discrete tasks that show a logical approach for project completion
- Demonstrates sufficient experience and ability of key project personnel to successfully carry out the project
- Project deliverables are clearly defined and consistent with program objectives

Time Frame (maximum of 6 points)
- Demonstrates how the project will be completed within a maximum of five years or less
- Presents a clear and realistic schedule and timeline that includes major tasks, milestones and completion dates

Project Readiness (maximum of 6 points)
- Demonstrates the ability to proceed with project upon award
- Demonstrates preliminary work needed to advance the proposed project has been completed (for example, if a construction project, designs have been prepared, permits and/or other approvals obtained, or at least submitted, to facilitate construction)
- Identifies current legal owner(s) of site where improvements will be implemented
- Demonstrates site control has been established, if applicable (i.e. easements, acquisition etc.)

Evaluation of Budget and Cost (maximum of 20 points)

Applications will also be evaluated to assess the degree to which they meet the elements of each criterion below.

- Application describes and documents how the budget and cost were determined. Identifies the person(s) responsible for compiling the budget including relevant experience and background of all parties and the method/approach used to arrive at estimates (maximum of 5 points)
- Budget clearly demonstrates amount, type, and source of eligible local match and demonstrates identified eligible match sources have been secured. (maximum of 5 points)
- 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)

Note: Detailed and clear demonstration of local match is required at the time of application. Awards may be reduced or not made if applicant fails to document sufficient, eligible match.

Regional Economic Development Council Endorsement (maximum of 20 points)

Each application will be scored by the Regional Economic Development Council in which the proposed project is located. Regional Councils will review applications to assess the degree to which the project helps implement the Regional Strategic Plan. The Regional Council will score applications based on a set of standards, referred to as “endorsement standards,” and will assign each project a single score of 20, 15, 10, 5 or 0 (no fractions) based on merit. Regional Strategic Plans and endorsement standards can be found at https://regionalcouncils.ny.gov/.
X. CONTRACT REQUIREMENTS

New York State Grants Gateway
Grant applicants are encouraged to register through the New York State Grants Gateway. To register, log on to

Standard Cost Reimbursement Contract
Each successful applicant must enter into a standard cost reimbursement contract with the Department which includes
an agreed upon work plan, 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: 1) be subject to approval by the Attorney General and State Comptroller; 2) require submission of final
products in both hard copy and electronic format; 3) be subject to payment only upon proper documentation and
compliance with reimbursement procedures; and 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 reserves the right to
rescind an award if the state contract is not signed and returned within a reasonable amount of time. There will be no
contract advance available to grantees. Expenses incurred prior to the start date of the state contract cannot be
reimbursed.

Compliance with Procurement Requirements
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 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
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 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
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.

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. 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 Utilization (MWBE)

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.

Amendments

Amendments will not be made to the original contracted scope of work, for example, applicants that receive funding for general planning or for project-specific planning, feasibility, design, and/or marketing projects may use this funding for these purposes only.

XI. SATISFACTORY PROGRESS

It is imperative that the grant recipient complete the project as set forth in the agreed upon work plan and individual monitoring plan. Failure to render proof of satisfactory progress 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, permit applications, reports, or other tasks identified in the work plan 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 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.
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, which 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 agency'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 applicants;
   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; and
z. Make awards based on disadvantaged and underserved community status.
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 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 NYCCR § 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