

RFA #21-OPDSG-18

**New York State
Department of State
Office of Planning, Development & Community Infrastructure
Environmental Protection Fund Smart Growth Program
Smart Growth Comprehensive Planning Grant 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-OPDSG-18 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 be 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: Smart Growth Comprehensive Planning 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.

Smart Growth Program Comprehensive Planning Grant Program 2021 – 2022 REQUEST FOR APPLICATIONS

I. INTRODUCTION:

The Department is soliciting applications through the New York State Consolidated Funding Application (CFA) under the Environmental Protection Fund Smart Growth Program from eligible villages, towns, cities, counties, regional planning entities, and not-for-profit organizations to advance the preparation of municipal comprehensive plans to establish land use policies which support smart growth and clean energy principles for the community.

The comprehensive plan is one of the central land use planning tools for local governments in New York State. The comprehensive plan is most often a written document that articulates the community vision and goals for land use and economic development. State law requires zoning regulations (i.e., local law, ordinance) to be adopted in accordance with a comprehensive plan in towns and villages and in accordance with a well-considered plan in cities. A comprehensive plan should form the legal justification for zoning regulations and all other land use regulations adopted by a municipality and those regulations should be designed to implement the goals and policies set forth in the plan. Lack of a comprehensive plan, or an outdated comprehensive plan that no longer reflects the conditions and wishes of the community, can put a local government at risk of legal challenges to planning and zoning decisions.

A Comprehensive Plan is a short- and long- term planning document that sets forth land use polices that express a vision for the future as well as goals and actions to achieve that vision. The benefits of a Comprehensive Plan include:

- Providing a process for identifying community resources, long range community needs, and commonly held goals
- Providing a process for developing community consensus
- Providing a blueprint for future governmental actions

By preparing a Comprehensive Plan that addresses Smart Growth Principles, community stakeholders have the opportunity to evaluate local resources, develop goals and a comprehensive strategy for the best and most efficient use of those resources, propose future projects, and adopt a local plan that will guide appropriate development and promote Smart Growth.

An effective Comprehensive Plan should:

- include a strong public participation process to develop public consensus on a vision for the future through community visioning, public meetings and workshops, focus groups, charrettes, etc.
- identify regional and local assets, potential risks, and opportunities with regard to: development and infrastructure; natural resources; flooding and erosion hazards; resiliency; public access and recreation; historic and scenic resources; agricultural and forest lands; energy – including opportunities to develop solar and other clean energy at a variety of scales; water and air resources; and other social, cultural, economic and environmental interests
- determine appropriate land uses to implement community goals and objectives
- provide local organizational and legal structure, including the adoption of necessary zoning and land use regulations (i.e., ordinance, local laws)

Smart Growth encourages community planning and development in priority development areas where water and sewer infrastructure are available, encourages redevelopment of existing community centers, protects important historic and natural resources, including water quality, and promotes the siting and development of community clean energy sources. Comprehensive plans should incorporate Smart Growth principles to make the most efficient use of community resources, reduce the property tax burden and promote sustainable economic development.

New York communities are faced with increased risks related to climate change, such as more intense and frequent rain events, increased and extended droughts, greater coastal storm flooding, and prolonged increased temperatures. As a result, New York has passed the nation-leading Climate Leadership and Community Protection Act (Climate Act) to empower every New Yorker to fight climate change at home, at work, and in their communities. Comprehensive plans provide a mechanism for local governments to address climate risks on a local level while also planning for appropriate economic development. The Comprehensive Plan can set a course for clean, affordable, and reliable energy and transportation; safe and energy efficient businesses; protection of farmland and forestlands to avoid conversion of lands; and overall healthy communities. Thus, the comprehensive plan should support Climate Act goals, smart growth principles, consider asset risk assessments, and incorporate and advance carbon reduction/abatement, energy efficiency and renewable energy strategies.

Applications to prepare or update a municipal comprehensive plan may only include one plan per application. A comprehensive plan should address a wide range of planning issues including, but not limited to, appropriate physical development, economic development, transportation patterns, natural and built resource inventories, and population trends.

The Smart Growth Comprehensive Planning Grant is a reimbursement program. State assistance awarded and paid through the Smart Growth Comprehensive Planning Grant Program shall not exceed 90% of the total eligible project costs set forth in the application and approved by the Department.

Applicants are required to demonstrate that projects are ready to move forward. A contract period will not exceed three 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 three 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.

Improving Access to Child Care

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

II. ELIGIBLE APPLICANTS:

Eligible applicants are:

- Villages, towns, and cities;
- Counties and regional planning entities on behalf of a village, town or city;
- Eligible not-for-profit organizations on behalf of a village, town, or city. To be eligible for this grant opportunity, a not-for-profit organization must be :
 - Incorporated pursuant to New York State Not-For-Profit Corporation Law and
 - Approved for tax-exempt status under the Internal Revenue Service code on or before December 31, 2020.

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.

For applications submitted by a county, regional planning entity or non-profit organizations with the written consent and acting on behalf of a village, town, or city, the application must include a letter or resolution from each eligible municipality participating in the project which demonstrates the municipal consent and support for the application.

III. FUNDING OPPORTUNITY:

The Department is making approximately \$1,000,000 available to fund applications for the Smart Growth Comprehensive Planning Grant Program.

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:

Eligible activities include those needed to develop a new Comprehensive Plan or a Comprehensive Plan update that is consistent with the Smart Growth Principles described in Section VI, below.

Applicants may apply for funding to prepare, complete, or update a Comprehensive Plan that integrates Smart Growth principles as described in section VI below. Pursuant to Town Law, §272-a, Village Law, §7-722 or General City Law, §28-a , such Comprehensive Plan may include the following topics:

- (a) General statements of goals, objectives, principles, policies, and standards upon which proposals for the immediate and long-range enhancement, growth and development of the town are based.
- (b) Consideration of regional needs and the official plans of other government units and agencies within the region.
- (c) The existing and proposed location and intensity of land uses.
- (d) Consideration of agricultural uses, historic and cultural resources, coastal and natural resources and sensitive environmental areas.
- (e) Consideration of population, demographic and socio-economic trends and future projections.
- (f) The location and types of transportation facilities.
- (g) Existing and proposed general location of public and private utilities and infrastructure.
- (h) Existing housing resources and future housing needs, including affordable housing.

- (i) The present and future general location of educational and cultural facilities, historic sites, health facilities and facilities for emergency services.
- (j) Existing and proposed recreation facilities and parkland.
- (k) The present and potential future general location of commercial and industrial facilities.
- (l) Specific policies and strategies for improving the local economy in coordination with other plan topics.
- (m) Proposed measures, programs, devices, and instruments to implement the goals and objectives of the various topics within the comprehensive plan.
- (n) All or part of the plan of another public agency.
- (o) Any and all other items which are consistent with the orderly growth and development of the town.

Communities with an adopted Comprehensive Plan are encouraged to regularly update their plan to reflect changes in local conditions and community goals and to integrate Smart Growth Principles. An update to the Comprehensive Plan will ensure the plan is current and well-connected to short and long-range community objectives and Smart Growth Principles.

The following activities related to comprehensive planning are eligible for reimbursement:

- Surveys, assessments, maps, charts, studies, and other research-oriented activities related to the Comprehensive Plan;
- Writing, illustrating, and producing the Comprehensive Plan;
- Holding and facilitating community forums and other costs related to public outreach and engagement;
- Coordinating with other governmental entities;
- SEQR and environmental review; and
- Project management, comprehensive plan committee coordination, and other activities needed to complete a Comprehensive Plan that addresses Smart Growth Principles.

Resources for preparing a Comprehensive Plan include:

- Zoning and the Comprehensive Plan, James A. Coon Local Government Technical Series: <https://dos.ny.gov/system/files/documents/2019/05/zoningandthecomprehensiveplan.pdf>
- Creating the Community You Want, James A. Coon Local Government Technical Series: <https://dos.ny.gov/system/files/documents/2019/05/creatingthecommunityyouwant.pdf>
- New York State Comprehensive Plan Development A Guidebook for Local Officials 2015 by Environmental Finance Center of Syracuse University: <https://efc.syr.edu/wp-content/uploads/2015/03/ComprehensivePlanning.pdf>

VI. REQUIREMENTS FOR SMART GROWTH PRINCIPLES

Comprehensive Plans funded under this grant program should contain strategies/projects that will be consistent with the following general Smart Growth Principles:

1. **Mixed Land Uses:** A mix of land uses can convey substantial fiscal and economic benefits by placing commercial uses near residential areas as critical component of achieving viable places to live for those who use and depend upon the area's commerce.
2. **Range of Housing Opportunities and Choices:** Provide quality housing with efficient access to jobs, resources and amenities for people of all income levels, ages and races.
3. **Development and Redevelopment in Existing Communities:** Smart Growth directs development towards existing communities already served by infrastructure, seeking to utilize the resources that existing neighborhoods offer, and to conserve open space and irreplaceable natural resources on the urban and metropolitan fringe.

4. **Distinctive, Attractive Communities with a Strong Sense of Place:** Smart Growth encourages communities to set standards for development and construction that respond to community values of architectural aesthetics, neighborhood-friendly design and human-scale planning, as well as expanded choices in housing and transportation.
5. **Density:** Compact communities are more land- and energy-efficient; provide the critical mass for neighborhood retail, commercial development and mass transit; protect natural resources; and promote walkability. Concentrating and directing growth in designated centers reduces the demand for sprawling development of greenfields on the metropolitan fringe, thus saving open space and farmland and protecting natural resources. Growth in centers maximizes the use of existing infrastructure, avoiding costly municipal expenditures on the extension and maintenance of new infrastructure.
6. **Clean Energy:** The inclusion of clean energy siting and development into planning, zoning, building and infrastructure, including, but not limited to, solar, wind, geo-thermal and micro-grids.
7. **Climate Change:** Concentrating residential, commercial, office and recreational land uses provides the density and critical mass necessary to sustain mass transit, reducing automobile dependency, vehicle miles travelled and transport-based greenhouse gas emissions. Denser communities are also more energy- efficient.
8. **Resiliency:** Land use, development and infrastructure that is adaptive to climate change impacts and is resilient and resistant to extreme storm events.
9. **Green Infrastructure:** Smart Growth incorporates green buildings – energy conservation measures, renewable energy, sustainable site location and maintenance, locally produced materials and food – well- maintained and well-placed parks, trails, linked open spaces, child accessible, environmental and ecological education areas, sustainable storm-water management and urban forestry.
10. **Social Diversity and Integration:** Communities designed on Smart Growth principles allow people of diverse ages, incomes, races and physical abilities to interact more regularly, easily and safely by encouraging walkable communities, accessible public spaces and a variety of age-, income- and race/ethnic-integrated housing opportunities.
11. **Regional Planning and Coordination:** We conduct our daily lives on a regional, multi-jurisdictional basis—in many cases living in one local government, working in another and recreating in yet another. And economic, ecological and transportation systems also operate regionally. It is therefore imperative that municipal planning also align and coordinate with regional objectives, systems and plans, as represented, for example, in NYSERDA Regional Sustainability Plans, REDC Strategic Plans, countywide plans and plans developed by Regional Planning Councils. Regional planning and coordination allow stakeholders to more effectively collaborate across jurisdictional lines to leverage resources and achieve mutual goals and objectives—environmental, social and economic.
12. **Walkable/Bikeable Neighborhood Design:** Walkable/bikeable communities make pedestrian activity possible by mixing land uses, building densely and connecting streets in a gridded pattern, thus expanding transportation options and creating streetscapes that better serve a range of users, including pedestrians, bicyclists, transit riders, and automobiles.
13. **Variety of Mobility Choices:** Providing people with efficient and varied mobility choices - walking, biking, public transit - fosters greater community opportunities for housing, shopping, and jobs compliant with Smart Growth principles.

14. **Well-Planned and Well-Placed Public Spaces:** The public realm plays a prominent role in the Smart Growth paradigm. Smart public spaces increase walkability, social interaction, livability, a sense of place and neighborhood aesthetics.
15. **Community and Stakeholder Collaboration in Planning:** Collaborative efforts can lead to creative resolutions of development issues and greater community understanding of the importance of good planning and investment which results in great places to live, work, shop and play.

VII. FUNDING AND BUDGET GUIDANCE

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

The maximum State assistance request per grant application is \$100,000. There is no minimum State assistance request requirement. Applications requesting over \$100,000 will be disqualified and will not be scored.

Eligible Costs

Costs must be adequately justified and directly support the project. Proposed costs, including match components, must be essential to project completion. All costs will be paid on a reimbursement basis and must be documented. Eligible costs include the following:

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

Notes:

Project management activities may include, but are not limited to, oversight and coordination of tasks and activities needed to produce contractual deliverables, consultant procurement and oversight, public outreach, and technical assistance.

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

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

Ineligible Costs

Ineligible costs include the following:

- (a) Indirect or overhead costs, such as rent, telephone service, general administrative support, computers, office equipment, general office supplies, general operations costs, membership fees, subscription costs.
- (b) Salaries and other expenses of elected officials.

- (c) Costs incurred outside of the contract term.
- (d) Costs that are not adequately justified or that do not directly support the project.

Notes:

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

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.

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 \$1,000,000 is anticipated for award for this procurement.

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, and cities; or counties, regional planning entities and not-for-profits 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.

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:

Demonstration of Need and Indicators of Economic Distress (maximum of 6 points)

- Applicant is a community with a Median Household Income (MHI¹) less than 80% of the 2017 Statewide MHI (i.e., MHI less than \$50,212) *(6 Points)*
- Applicant is a community with a MHI less than the 2017 Statewide MHI but not less than 80% of the 2017 MHI (i.e., MHI greater than or equal to \$50,212 but less than \$62,765) *(3 Points)*
- Applicant is not a financial-hardship community, as defined above *(0 Points)*

Public Engagement and Commitment (maximum 10 points)

- Describes an effective approach and process that will be followed to ensure ongoing public participation and engagement during planning process and an approach to enabling and encouraging participation from populations who are frequently underrepresented, including but not limited to immigrants, refugees, and minorities *(up to 5 points)*
- Demonstrate committed local leadership and strong support from community residents *(up to 5 points)*

Integration of Smart Growth Principles (maximum of 24 points)

- Describes an approach to integrating Smart Growth Principles into the Comprehensive Plan and demonstrates understanding of how the principles are applicable to the specific conditions of the community.
 - Provides a clear and complete approach to integrating Smart Growth Principles *(16-24 points)*
 - Provides a general approach to integrating Smart Growth Principles *(8-15 points)*
 - Provides limited approach to integrating some of the Smart Growth Principles *(0-7 points)*

Implementation (maximum of 20 points)

Scope of Work (maximum of 10 points)

- Clearly defines what is to be done how it will be done, who will do it, through identifying a set of clear and discrete tasks that show a logical approach for project completion *(up to 5 points)*
- Clearly describes preliminary work that has been completed to advance the proposed project including previous planning efforts, committee development, etc. *(up to 5 points)*

¹ Median Household Income (MHI) may be established using publicly available census data and does not require detailed demographic and economic data from the municipality. Per the U.S. Census American Community Survey (<https://www.census.gov/acs/www/data/data-tables-and-tools/data-profiles/2017/>), the 2017 Statewide MHI for total households in New York State is \$62,765.

Time Frame (maximum of 5 points)

- Presents a clear and realistic schedule and timeline to complete the planning process within a maximum of three years or less that includes major tasks, milestones and completion dates

Local Capacity (maximum of 5 points)

- Demonstrates that an effective organizational structure exists to advance and complete the project and there is sufficient experience and ability of key project personnel to successfully carry out the project

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*)

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 <http://grantsreform.ny.gov>.

Not-for-profits and Regional Planning Boards must register and be pre-qualified through the NYS Grants Gateway on or before the application due date. Such applicants will be required to submit documentation of registration and pre-qualification with the NYS Grants Gateway, to include: (1) the Document Vault Identifier (i.e., GDV-XXXXX-XXXX); and (2) the State Pre-Qualification Application Status Report. Information on this process is available at:

<http://www.grantsreform.ny.gov/Grantees>

Standard Cost Reimbursement Contract

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

upon proper documentation and compliance with reimbursement procedures; and 4) subject to all other contractual requirements. (A copy of a standard contract along with Attachment A and Article 15-A is available from the Department.)

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

Compliance with Procurement Requirements

Municipalities

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

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify to the Department of State that applicable public bidding procedures of General Municipal Law §103 were followed for all service, labor, and construction contracts involving more than \$35,000 and all purchase contracts involving more than \$20,000. In the case of contracts by municipalities for service, labor, and construction contracts involving not more than \$35,000 and purchase contracts involving not more than \$20,000, the municipal attorney, chief legal officer or financial administrator shall certify that the procedures of the municipality established pursuant to General Municipal Law §104-b were fully complied with, in addition to the MWBE requirements.

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

Not-for-Profit Organizations and Regional Planning Entities

The chief legal officer or financial administrator of the not-for-profit or regional planning entity which is a grant recipient and serves as State Contractor, shall certify to the State that alternative proposals and quotations for professional services were secured by use of written requests for proposals through a publicly advertised process satisfactory to meet the MWBE requirements set forth below and to ensure the prudent and economical use of public funds for professional services of maximum quality at reasonable cost.

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 three 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 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; and

- y. Not make any awards pursuant to this RFA. This RFA does not commit the Department to award any contracts, to pay the costs incurred in the preparation of a response to this RFA, or to procure or contract for services.

Appendix 1

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

I. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION

NEW YORK STATE LAW

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

Business Participation Opportunities for MWBEs

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

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

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

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

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and Department may withhold payment as liquidated damages. Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can

be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Department . As a contractor of New York State, you have a responsibility to utilize certified minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your solicitation, proposal or contract documents. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

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

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

An MWBE Utilization Plan (**Form D**) or a Certification Letter (**Form D-1**) stating their commitment to show due-diligence to comply with the MWBE goals and requirements. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Department for review and approval.

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

If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the Department , at the address provided below, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Department to be inadequate, the Department shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the proposal.

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

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

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

Successful applicant(s) will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Department, but must be made no later than prior to the submission of a request for final payment on the Contract.

Successful applicant(s) will be required to submit a quarterly M/WBE Contractor Compliance & Payment Report to the Department , by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of the New York State Master Grant Contract, Section IV (J) - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition,

replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

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

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

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and subcontractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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

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

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

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

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

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

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

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

II. SERVICE-DISABLED VETERAN-OWNED BUSINESSES PARTICIPATION

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

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

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