

RFA #23-OPDSG-13

**New York State Department of State
Office of Planning, Development & Community Infrastructure
Environmental Protection Fund Smart Growth Program
Countywide Resiliency Grant Program
2023 – 2024 REQUEST FOR APPLICATIONS**

- RFA Release Date:** May 15, 2023. 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>. All applicants are encouraged to read the RFA in its entirety as grant program requirements may change from year to year.
- 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 16, 2023. Questions regarding this grant program should be submitted by e-mail to opd@dos.ny.gov or in writing to the address below. When corresponding by e-mail, clearly indicate the subject as: "23-OPDSG-13 Questions". To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers. Responses to questions received by June 16th will be posted by July 7th on the Department's website at: <https://dos.ny.gov/funding-bid-opportunities>. No responses will be provided to inquiries made by telephone, social media, or by contacting DOS staff directly via email or telephone.
- 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:** Webinars will be available to provide an overview of the application process and program requirements are available at: <http://regionalcouncils.ny.gov/>. Additionally, DOS will host live webinars on May 24th and June 5th. Webinar schedule and registration, and recorded webinars are posted on the DOS Funding & Bid Opportunities website.
- Applications Due:** Applications are due by 4:00 PM, July 28, 2023, and must be submitted through the web-based Consolidated Funding Application, as noted below.
- Application Submission:** To apply, or to access related Consolidated Funding Application materials, go to <http://regionalcouncils.ny.gov/>
- Contact:** NYS Department of State
Office of Planning, Development & Community Infrastructure
Attn: Smart Growth Countywide Resiliency RFA Questions
99 Washington Avenue, Suite 1010
Albany, NY 12231
opd@dos.ny.gov
- Letter of Support:** Letters of support are not required but are encouraged and may be submitted through the CFA portal. Letters may be addressed to Secretary of State Robert J. Rodriguez c/o Office of Planning, Development and Community Infrastructure, 99 Washington Avenue, Suite 1010, Albany, NY 12231.

**Smart Growth Program Countywide Resiliency Planning Program
2023-2024 REQUEST FOR APPLICATIONS**

I. INTRODUCTION

The New York State Department of State Office of Planning Development and Community Infrastructure is soliciting applications through the Consolidated Funding Application (CFA) from counties, regional planning councils and non-profit organizations for grants to support the creation of countywide resiliency plans that primarily address climate change risks and vulnerabilities associated with an increase in frequency and severity of storm and precipitation events; sea-level rise; storm surge; flooding; drought; extreme heat; and other climate hazards.

Sea level rise, drought, extreme heat, increased frequency and intensity of storms, and the resultant effects from these climate-related changes impact communities and services on which residents and tourists depend. The health and resilience of communities rest on their ability to prepare for future climate impacts, reduce or avoid harm from hazards, and rebound from those impacts when they occur. Communities tend to be more resilient when they are aware of their risks, are prepared to respond quickly and strategically to changing conditions and consider the disproportionate impacts on socially vulnerable populations.

Responsibly recognizing these new realities requires that we act concertedly to be better prepared for their impacts. Planning for and building or re-building our communities in a way that will build greater resilience and mitigate future risks, damages and threats to human life and property is essential. In addition, this needs to be accomplished in a socially, environmentally, fiscally, and economically sustainable way.

Funding is available on a competitive basis to develop countywide resiliency plans that consider past damages, future threats, and potential economic opportunities and identify strategies and projects to make communities more resilient. It is expected these countywide resiliency plans will ensure that any reconstruction or revitalization efforts strengthen community vitality, maximize use of available funds, and reduce future weather and climate related damages.

Good resiliency plans will reflect each of the following as it pertains to the unique circumstances of the county:

- Address community resiliency to a changing climate, including both adaptation and mitigation strategies to proactively address risks and reduce vulnerabilities, and seek solutions that provide multiple benefits and address multiple goals.
- Incorporate and advance 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.
- Encourage accessibility and green public spaces including: pedestrian and bike trails that connect people to parks, nature and public spaces; community landscaping, preferably with native plant species; tree-planting and urban forestry; accessible neighborhood parks, greens and/or squares; community gardens; and mitigation of “heat island” effects.
- Encourage climate-adaptive design approach which prioritizes non-structural or natural-based measures approaches to promote resiliency. Any such plan/approach should recommend structural measures only where non-structural or nature-based alternative measures have been proven to be inadequate to protect the principal use.
- Ensure that governmental decision-making is based on sound science and considers cumulative effects
- Provide a framework that encourages sustainable development or redevelopment of communities in appropriate locations outside of flood prone areas.
- Incorporate consideration of sea-level rise, storm surge, erosion and/or flooding in project design to make projects on public property and/or public facilities more resilient.

- Include an integrated, all-systems analysis as it relates to the systems inter-dependencies among various critical facilities, forms of infrastructure (e.g., transportation, energy, waste management, stormwater management) and relevant governmental functions.
- Integrate and coordinate with other key local and regional planning efforts including Local Waterfront Revitalization Programs, watershed plans, comprehensive plans, the County/Local Hazard Mitigation Plan and, where appropriate, the State Hazard Mitigation Plan.
- Includes an inclusive and robust public engagement plan to ensure broad-based public involvement throughout the planning process.

All selected applicants will participate in regular conference calls with one another, facilitated by the DOS Smart Growth Director, to share insights, lessons learned, and other information gleaned during the planning process. These conference calls provide the applicants with technical assistance and the opportunity to learn from others that are underway in the Countywide Resiliency Planning process.

Applications to prepare a countywide resiliency plan may only include one county plan per application.

Written questions will be accepted until June 16, 2023. Questions should be submitted by e-mail to opd@dos.ny.gov or in writing to: NYS Department of State Office of Planning, Development and Community Infrastructure, Attn: Smart Growth Countywide Resiliency Planning RFA Questions, 99 Washington Avenue, Suite 1010, Albany, NY 12231

When corresponding by e-mail, clearly indicate the subject as “23-OPDSG-13 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 16, 2023, will be posted by July 7, 2023 on the Department’s website at <https://dos.ny.gov/funding-bid-opportunities>

II. FUNDING OPPORTUNITY

The Department is making approximately \$2,000,000 available to fund applications for the Countywide Resiliency Planning Program. The maximum grant funding will be \$300,000 per award. Applications will be scored and funds will be awarded in rank order until available funds are exhausted.

III. ELIGIBLE APPLICANTS

Eligible applicants are:

- NYS Counties;
- Regional planning councils;
- Not-for-profit organizations that are:
 - 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, 2022.

An eligible applicant may apply for a grant needed to advance eligible activities listed below in Section IV.

Applicants may partner with counties or other organizations; however, only applications from eligible applicants will be evaluated for funding.

For applications submitted by a regional planning entity or non-profit organization (with the written consent and acting on behalf of a county), the application must include a letter or resolution from the county which demonstrates their consent and support for the application.

Requirements for applications by non-municipal applicants

All non-municipal applicants are required to complete and submit the Certification under Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia. The certification may be found here: https://ogs.ny.gov/system/files/documents/2022/04/eo16_certification.pdf. Completed Certification forms should be submitted no later than 4:00 pm on October 1, 2023 via email to opd@dos.ny.gov. The applicant's name and CFA# should be included in the subject line.

IV. ELIGIBLE ACTIVITIES

Funding awarded through this solicitation may be used for activities necessary to develop a countywide resiliency plan for a county in New York State using an inclusive community-based planning process. Successful applicants will develop a vision for a resilient county; increase public education and awareness on topics like climate change impacts, natural hazards, and/or resiliency measures; assess vulnerability and risk; identify and implement management measures, standards, or policies needed to accommodate changing conditions; estimate costs and benefits of resiliency measures; prioritize planning projects and strategies that have the most significant value in making counties more prepared for future climate or hazard events; and develop funding strategies to implement priority projects including identification of available federal, state, municipal, nonprofit and private resources.

Applicants may focus their efforts, as appropriate, on increasing public education and awareness; assessing vulnerability and risk; identifying and implementing management measures, standards, or policies; proposing zoning changes; and designing structures to accommodate changing conditions.

At minimum, each Countywide Resiliency Plan will include the following:

- **Assessment of risk to key assets.** As the bedrock of the plan, an inventory of assets, needs, opportunities and the assessment of risk to key assets will help a community set priorities among needed projects and actions. Plans shall include a countywide resiliency/risk assessment (DOS Risk Assessment tool; the US EPA/FEMA C-RISE assessment tool or the NYS Department of Environmental Conservation's Climate Smart Resiliency Planning Assessment Tool, or other tool as approved by DOS) as part of the plan development process.
- **Vision Statement.** Developing a vision statement declares what you hope to accomplish and provides a dynamic way to mobilize community involvement and support. The resiliency plan will include a vision statement that will be used throughout the planning process to provide focus and direction; motivate and build partnerships; and build support for future implementation
- **Strategies, projects, and actions to:**
 - **Restore and increase the resilience of key assets:** The resiliency plan should address both the improvement of existing key assets and actions or strategies that will make them more resilient to future threats. Examples of such projects and actions include restoration or protection of natural infrastructure (e.g., wetlands, oyster reefs, dunes, and other natural protective features), implementation of green infrastructure practices, changes in land use regulations to encourage sound development (e.g., changes in use, increased setbacks, and transfer of density), and investments in transportation or other improvements in community systems to prepare for future threats.
 - **Protect vulnerable populations:** The resiliency plan must identify new measures to protect vulnerable persons (people with disabilities, low and very low-income populations, elderly, young children, homeless and people at risk of becoming homeless) through housing decisions and other services. For example, site new facilities out of hazardous areas (e.g., in lower risk areas), require backup power systems for critical facilities such as nursing homes and hospitals, create centrally located and accessible cooling centers, and improve communications systems to ensure that vulnerable persons are

not left without aid. Some actions to address vulnerable populations could include amendments to municipal emergency management procedures.

- ***Provide economic growth co-benefits:*** The resiliency plan must include strategies and projects to enhance community resilience and will improve the future of the local economy. For example, investments in new and resilient transportation infrastructure may facilitate the growth of Main Street business corridors; and investments in new recreational assets (e.g. new green space that serves as a buffer against flooding) may protect against storm damage or serve as redundant protection in critical areas, while also drawing tourists or facilitating the growth of new businesses.
- ***Regional coordination.*** Regional coordination can enable stakeholders to work together across jurisdictions to leverage resources, opportunities and long-term objectives. The resiliency plan will have a clear written approach to regional coordination.
- ***Public Outreach.*** The resiliency planning process should encourage community participation throughout the entire process. A community outreach and participation plan will help ensure that all stakeholders throughout the county have an opportunity to provide input, concerns, and comments. Outreach efforts should encourage participation from populations who are frequently underrepresented in this process, including immigrants, refugees, and minorities.
- ***Detailed implementation strategy.*** A clear and detailed description of the actions needed to implement the plan will provide a template for success. This includes assigning responsibility for specific actions to specific individuals or organizations, and establishing timelines for each action, as appropriate.

The following activities related to resiliency planning for counties are eligible for reimbursement:

- a) Surveys, assessments, data gathering, and other research-oriented activities related to the Countywide Resiliency Plan;
- b) Scenario planning to inform the Plan and/or to educate the public and public officials on the impacts and outcomes of proposed actions in the Plan;
- c) Resiliency/risk assessments using tools such as the DOS Risk Assessment tool, the US EPA/FEMA C-RISE assessment tool, the NYS Department of Environmental Conservation's Climate Smart Resiliency Planning Assessment Tool, or other risk assessment tool as approved by DOS;
- d) Writing, editing, illustrating, and producing the Countywide Resiliency Plan;
- e) Holding and facilitating community forums and other meetings;
- f) Coordinating with other governmental entities; and/or
- g) Other actions needed to complete the Countywide Resiliency Plan.

V. FUNDING AND BUDGET GUIDANCE

The Smart Growth Countywide Resiliency Planning Program is a reimbursement program. State assistance awarded and paid through the Smart Growth Countywide Resiliency Planning Program shall not exceed 90% of the total eligible project costs set forth in the application and approved by the Department. An eligible applicant receiving a grant award must demonstrate the ability to cover the remaining 10% of the project costs, and those costs must be eligible and essential to project completion.

Maximum grant funding will be \$300,000 per award.

Eligible Costs

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

Notes:

Project management activities may include, but are not limited to, oversight and coordination of tasks 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.
- (e) Costs to be reimbursed by other Environmental Protection Fund awards (including but not limited to WQIP, BOA, Smart Growth, LWRP, OPRHP EPF)

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.

VI. 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.

Approximately \$2,000,000 is anticipated for award for this procurement. Applications will be scored and funds will be awarded in rank order 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/>.

VII. APPLICATION EVALUATION CRITERIA

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

Minimum Criteria

Eligible applicants are a county, regional planning board or commission, or another not-for-profit corporation located in New York State applying on behalf of a county.

Applications will also be assessed to ascertain that the activities proposed are eligible under this solicitation.

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

Program Criteria (maximum of 100 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:

Public Engagement (maximum of 12 points)

- Describes an effective approach and process that provides for broad-based public involvement of community-based organizations, neighborhood groups, not-for-profit organizations and others who would be affected by or who can advance implementation of resilience projects. *(up to 8 points)*
- Describes how the public participation and engagement process will address Diversity, Equity, Inclusion, Justice and Accessibility (DEIJA) and encourage participation from populations who are frequently underrepresented, including but not limited to immigrants, refugees, and minorities. *(up to 4 points)*

Partnerships and Commitment (maximum of 16 Points)

- Creates or advances intermunicipal and intergovernmental partnerships in order to make delivery of government services more resilient *(up to 8 points)*

- Demonstrate committed local leadership and strong support from municipalities within the county through letters of support, resolutions, or other means of demonstrating commitment (*up to 4 points*)
- Demonstrates support from stakeholders directly impacted by the project (*up to 4 points*)

Scope of Work (maximum of 18 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
- Clearly describes preliminary work that has been completed to advance the planning process and support the resiliency plan including committee development, visioning, engagement/outreach, etc.

Time Frame and Readiness (maximum of 6 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
- Demonstrates the applicant's ability to proceed with the project upon award

Need for Resiliency Planning (maximum of 12 points)

- Describes current and potential future climate hazard risks and vulnerabilities including impacts to priority assets (i.e., vulnerable populations, infrastructure, emergency services, natural resources, etc.) (*up to 8 points*)
- Includes a clear description of past events/damages experienced within the county and explain the impacts to priority assets (*up to 4 points*)

Planning and Implementation Efforts (maximum of 6 points)

- Describes past and current planning efforts undertaken and explains current strategies identified to manage climate hazards (*up to 3 points*)
- Describes implementation of past and current climate adaptation or mitigation strategies and explain how risk to associated assets were reduced and/or will be reduced in the future (*up to 3 points*)

Local Capacity (maximum of 6 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 (*up to 3 points*)
- Demonstrates an existing or proposed organizational structure adequate to sustain implementation of the recommendation and projects contain within the final plan (*up to 3 points*)

Demonstration of Participation in Complementary Programs (maximum of 4 points)

- County is recognized as a Certified Bronze Level (or above) Climate Smart Community as certified NYS Department of Environmental Conservation. (*2 points*)
- County is recognized as an age-friendly community within AARP's Network of Age-Friendly Communities. (*2 points*)

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. (*up to 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. (*up to of 15 points*)

REDC Feedback

DOS will accept feedback from the Regional Economic Development Councils (REDC) on applications received under this grant and will take that feedback into account if practicable.

VIII. 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.

IX. 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 as of 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 compliance 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, 2023. 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.

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.

X. 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.

XI. 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 after prior notification to the applicant;
- 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 concurrence of the applicant if errors exist and can be documented to the satisfaction of the Department and the State Comptroller;
- 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>. 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://online.ogs.ny.gov/SDVOB/search>.