

RFA #24-BOA-4
New York State Department of State
Office of Planning, Development and Community Infrastructure
BROWNFIELD OPPORTUNITY AREA PROGRAM
2024 - 2025 REQUEST FOR APPLICATIONS

- RFA Release Date:** May 13, 2024. This Request for Applications (RFA) has been posted on the Department of State's (Department) website at <https://dos.ny.gov/funding-bid-opportunities>. All applicants are encouraged to review 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 17, 2024. Questions 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: "24-BOA-4 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 17, 2024, will be posted by July 9, 2024, 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 of State (DOS) to questions and will be incorporated into this Request for Applications.
- Workshops & Webinars:** A schedule of regional workshops and webinars which provide an overview of the application process and program requirements are available at: <http://regionalcouncils.ny.gov/>. DOS will host live webinars on May 22, 2024. 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 31, 2024, 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 and Community Infrastructure
Attn: BOA RFA Questions
99 Washington Avenue, Suite 1010
Albany, NY 12231-0001
BOA@dos.ny.gov
- Letters of Support:** Letters of support 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 12231-0001.

Brownfield Opportunity Area Program 2024-2025 REQUEST FOR APPLICATIONS

I. INTRODUCTION

The Department of State is soliciting applications through the New York State Consolidated Funding Application (CFA) from eligible municipalities, community-based not-for-profit organizations, and NYC Community Boards for funding to the Brownfield Opportunity Area Program. Funds are available for projects that establish or implement strategies for community redevelopment of areas affected by known or suspected brownfields. Multiple BOA program applications are permitted, but each application must be for only **one** of the following grant activities:

- (1) **County-wide Pre-Planning:** Brownfield identification, underutilized site inventory and preliminary analysis of land use of one or more areas within a county or large geographical area to determine the presence of potential brownfield, vacant, and abandoned sites and assess localized concentrations of known or suspected brownfields and other underutilized lands that may be candidates for future in-depth BOA planning and predevelopment activities. Pre-Planning will not culminate in a BOA Designation.
- (2) **Planning:** Development or update of Brownfield Opportunity Area (BOA) Plan, which is a strategic plan for an area affected by known or suspected brownfields that will culminate in a request for State BOA Designation.
- (3) **Predevelopment Activities:** Activities to complete analyses, plans and studies or professional services to advance redevelopment within a State-Designated BOA.
- (4) **Phase II Environmental Site Assessments (SA)** Site environmental investigation activities including sampling and chemical testing within a State-Designated BOA, which will be detailed in a Phase II ESA report

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

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

Through the BOA Program, communities are empowered to:

- Address a range of problems posed by multiple known or suspected brownfield sites.
- Build community consensus on the future uses for the area with an emphasis on strategic sites that are known or suspected brownfields.
- Establish sustainable goals and objectives for area-wide revitalization and for redevelopment of strategic sites.
- Implement existing and future Smart Growth plans through the identification and reuse of underutilized and potential brownfield properties.
- Strengthen and direct development towards existing neighborhoods and preserve open space.

- Make re-development decisions that are equitable, fair, and will create an environment that adapts to ecological disturbances.
- Identify and establish the multi-agency and private-sector partnerships necessary to leverage assistance and investments to revitalize downtowns, neighborhoods, and communities.
- Reduce carbon emissions and increase climate resiliency in the built environment.
- Address environmental justice concerns and promote environmental equity in areas that may be burdened by negative environmental consequences; and
- Engage in activities to implement the community’s vision after BOA designation by Department of State.

In many ways, the BOA program supports what are known as the “4 Es” of Smart Growth—Economy, Environment, Equity and Energy. Brownfield redevelopment, for instance, inherently achieves a central principle of Smart Growth—the redevelopment of previously developed areas within, or next to, existing neighborhoods, thus offering a more sustainable and equitable alternative to sprawling development on undeveloped suburban and rural greenfields. Indeed, many BOA plans and projects support, and have been supported by, downtown neighborhoods served by the DOS Downtown Revitalization Initiative. Since most BOAs are located within environmental justice and traditionally disadvantaged communities, the program also advances socio-economic equity. BOA achieves the goals of the State’s Climate Act in several ways—creating compact, walkable, mixed-use communities that reduce automobile dependence and thus reduce transportation-based greenhouse gas emissions; producing green buildings as an antidote to the previous contamination; and developing alternative energy.

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

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

This Request for Applications is available at <https://dos.ny.gov/funding-bid-opportunities>. All applicants are encouraged to read the RFA in its entirety as grant programs and requirements change from year to year. Any updates and/or modifications to this RFA will also be posted on this webpage.

Written questions will be accepted until June 17, 2024. Questions should be submitted by email to BOA@dos.ny.gov or in writing to: NYS Department of State Office of Planning, Development and Community Infrastructure, attn: BOA RFA Questions, 99 Washington Ave, Suite 1010, Albany NY 12231.

When submitting questions by email, clearly indicate the subject as: “24 BOA-4 RFA Questions”. To the degree possible, each inquiry should site the RFA section and paragraph to which it refers. Responses to questions received by June 17, 2024 will be posted by July 9, 2024 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 contacting DOS staff directly via email or telephone.

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

II. ELIGIBLE APPLICANTS

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

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

Community Based Organization - A community-based organization must be a not-for-profit corporation under Section 501(c)(3) of the Internal Revenue Code at the time of application. In addition, its stated mission must be to promote reuse of known or suspected brownfield sites or community revitalization within the geographic area in which the community-based organization is located; it must have 25 percent or more of its Board of Directors residing in the community in such area; and it must represent a community with a demonstrated financial need. Community based organization shall not include any not-for-profit corporation that has caused or contributed to the release or threatened release of a contaminant from or onto the brownfield site, or any not-for-profit corporation that generated, transported, or disposed of, or that arranged for, or caused, the generation, transportation, or disposal of contamination from or onto the brownfield site. This definition shall not apply if more than twenty-five percent of the members, officers or directors of the not-for-profit corporation are or were employed or receiving compensation from any person responsible for a site under title thirteen or title fourteen of article twenty-seven of the environmental conservation law, article twelve of the navigation law or under applicable principles of statutory or common law liability.

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

III. JOINT APPLICATIONS

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

IV. FUNDING OPPORTUNITY

The Department is making approximately \$2,000,000 available for BOA Program grants for the eligible activities, assigned by activity identified in Section V, below.

State assistance awarded and paid to a grant recipient shall not exceed 90% of the total eligible costs. Applicants should identify the amount and source of secured local funds; failure to do so may result in a reduced award amount for qualifying applications.

The maximum State assistance request for each grant award is \$500,000. The minimum State assistance request for each grant award is \$100,000.

V. ELIGIBLE ACTIVITIES

A. Four types of activities are eligible for BOA funding:

- County-wide Pre-Planning: Brownfield Identification and Preliminary Analysis
- Planning: Development or Update of a BOA Plan
- Predevelopment Activities within a State-Designated BOA
- Phase II Environmental Site Assessments within a State-Designated BOA

An application for funding should only include one activity. Eligible applicants wishing to apply for more than one grant activity should submit a separate application for each.

(1) *County-wide Pre-Planning: Brownfield Identification and Preliminary Analysis*

County-wide Pre-Planning is the identification, inventory, and analysis of known or suspected brownfields, including vacant, abandoned and underutilized property, within a county, borough, or other multi-jurisdictional area to identify concentrations of these properties for future specific localized planning efforts. The analysis shall culminate in a description and justification of an area or areas for future BOA planning, a basic description of current land use and zoning; identifying the proximity of potential brownfield sites to infrastructure assets; an assessment of existing and ongoing planning efforts; descriptions of existing known or suspected brownfield sites and other underutilized properties, a description of the area's potential for revitalization including the potential for renewable energy siting, and, as applicable, a set of action steps that can be taken to advance future BOA planning efforts.

Outcomes of a pre-planning activity will include a multi-jurisdictional inventory, including relevant mapping and preliminary analysis of identified known or suspected brownfield, underutilized, vacant, and abandoned property, and the identification of smaller areas, demonstrating a concentration of underutilization, within the study area that are recommended for future BOA planning and designation by the State. The county-wide pre-planning activity will enable counties to better understand development conditions surrounding potential brownfield clusters and integrate existing and ongoing planning efforts into the BOA program.

Pre-Planning Inventory and Analysis is intended for counties or multi-jurisdictional areas that have minimal information on the number and extent of potential brownfield sites and related site underutilization that may have a significant adverse impact on the communities within the area studied. Pre-Planning will enable counties and cooperating local municipalities to conceive a holistic approach for long-term economic development and revitalization across local boundaries.

(2) *Planning: Development or Update of a BOA Plan*

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

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

Applicants may apply for funding to prepare or complete a BOA Plan or update an existing (designated or non-designated) BOA Plan to include all elements necessary to support a request for designation of the BOA by the Secretary of State and must commit to making such a request when the BOA Plan is deemed complete by the Department of State.

Applicants who have completed a BOA Plan (formerly BOA Nomination), that has or has not culminated in BOA Designation, may submit for a plan update. Justification for completing an update include, but are not limited to, the community's vision, goals, and strategies for revitalization are determined to be outdated; the boundary area of the designated BOA needs to be reconsidered; economic or market conditions have evolved, the status of strategic sites has changed; or the BOA Plan as designated by the NYS Secretary of State cannot be implemented. Updates of BOA plans should revisit all areas of the plan updating them to reflect the community's current vision and conditions and opportunities within the BOA area.

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

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

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

(3) *Predevelopment Activities within a State-Designated BOA*

Applicants may apply for funding for predevelopment activities within a BOA that has been designated by the Secretary of State. Applicants with a pending application for designation submitted to DOS prior to June 1, 2024 are also eligible to apply, however funding may only be awarded if the designation is made by the Secretary of State by October 1, 2024. A list of currently State-designated BOAs is available on the Department website: <https://dos.ny.gov/brownfield-redevelopment>.

These activities should advance the goals and priorities for revitalization and redevelopment of the area as expressed in the BOA Plan completed for the State-designated BOA.

Eligible predevelopment activities may include:

Analyses, Plans and Studies: that are undertaken leading to the furtherment of catalytic redevelopment or area improvement within the State-designated BOA including:

- Development of design, engineering, and/or construction plans and specifications
- Environmental analyses and studies
 - including, but not limited to the preparation of a NYDEC Brownfield Cleanup Program (BCP) application for publicly-owned sites
- Housing and economic studies, analyses, and reports
- Building conditions studies
- Infrastructure analyses
- Renewable energy feasibility studies

Professional Services to Advance Redevelopment consistent with the BOA Plan within the State-designated BOA, including:

- Development and implementation of marketing strategies
- Zoning and regulatory updates
- Legal and financial services
- Real estate services
- Public outreach

The Department encourages applications for predevelopment activities which include and prioritize accessibility in their design. Project design should incorporate Americans with Disabilities Act (ADA) standards and other creative solutions which go beyond minimum ADA standards to maximize accessibility to make public spaces and facilities more inclusive and usable for as many people as possible regardless of differences in ability and will allow all visitors equal access. For example, inclusion of ADA accessible streetscapes, parks, and site furnishings such as seating and tables that accommodate wheelchair users, age-friendly features, amenities appropriate to the varied capabilities of all users including individuals with cognitive, communicative, social/emotional and sensory disabilities, and multi-lingual or pictorial wayfinding.

(4) *Phase II Environmental Site Assessments within a State-Designated BOA*

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

Applicants may apply for SA funding within a State-designated BOA. Applicants with a pending application for designation submitted to DOS prior to June 1, 2024 are also eligible to apply, however funding may only be awarded if the designation is made by the Secretary of State by October 1, 2024. A list of State-designated BOAs is available on the Department website: <https://dos.ny.gov/brownfield-redevelopment>.

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

To be eligible for a Phase II Environmental Site Assessment through the BOA Program, a site:

- cannot be on the Federal National Priority List
- cannot be listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites as a Class 1 or 2 Site
- cannot be a permitted Resource Conservation and Recovery Act site under ECL Article 27, Title 9.
 - Interim status sites, however, are eligible.
- cannot be subject to an order for cleanup under Article 12 of the Navigation Law or Title 10 of Article 17 of the Environmental Conservation Law. If the property is subject to a stipulation agreement, relevant information should be provided; however, property will not be deemed ineligible solely on the basis of the stipulation agreement.

- cannot be subject to an enforcement action under a State or Federal remedial program.
- must be owned by either a **volunteer** or a **municipality**, as defined below:
 - **volunteer** (as defined in section 27-1405 of the Environmental Conservation Law): an applicant other than a participant, including without limitation a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants, provided however, such person exercises appropriate care with respect to contamination found at the facility by taking reasonable steps to:
 - (i) stop any continuing release.
 - (ii) prevent any threatened future release; and,
 - (iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.
 - **municipality** (as defined in section 970-r of the General Municipal Law and in subdivision fifteen of section 56-0101 of the Environmental Conservation Law): a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or tribal nation recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, or any combination thereof.
- must be accessible to the applicant in order to perform the site assessment.
- must be located within a State designated BOA.
- must have been determined a "potential or suspected brownfield site" by DOS during the BOA planning process. The BOA planning process has identified that a certain site may be a "Brownfield site" or "site" and further Phase II Environmental Site Assessment analysis is warranted to determine if a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by New York State Department of Environmental Conservation.
- must require additional environmental information to determine technically and economically viable land uses for the BOA.
- may be contaminated as a result of an on-site or off-site source.

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

- contamination of structures located at the site, due to stored materials, electrical appurtenances, lead paint, or asbestos, etc.

Costs associated with the assessment of asbestos or lead paint inside a structure may be eligible if this information is required to determine technically and economically viable land uses for the BOA. However, if the scope of the site assessment is almost exclusively the assessment of indoor asbestos or lead paint, the proposed site assessment will not be eligible. In addition, no other costs associated with the assessment of indoor conditions (e.g., soil vapor) are eligible. Department of State guidance on Phase II Environmental Site Assessments is found in the BOA *Site Assessment Supplement Package* which is available at <https://dos.ny.gov/funding-bid-opportunities>.

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

below.

Site eligibility for a SA funded through the BOA Program does not guarantee site eligibility in the New York State Brownfield Cleanup Program administered by the Department of Environmental Conservation (DEC).

VI. FUNDING AND BUDGET GUIDANCE

The Brownfield Opportunity Areas program is reimbursement-based. State assistance awarded and paid through the BOA program shall not exceed 90% of the total eligible project costs set forth in the application and approved by the Department. 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.

When estimating the total eligible project cost, the applicant should calculate the cost to complete each task included in the project scope of work, which may include costs associated with project management and grant administration. As a reference, DOS generic work plans describing tasks necessary to prepare a County-wide Pre-Planning analysis, a BOA Plan, BOA Predevelopment activities or Phase II Environmental Site Assessments are available at: <https://dos.ny.gov/funding-bid-opportunities>. The budget may only include eligible costs described below which directly support the project scope of work. Applicants are encouraged to obtain multiple project quotes from consultants with relevant professional experience and background to inform the budget.

Eligible Costs

Costs must be adequately justified, directly support the scope of work of the proposed project and be essential to project completion. All costs will be paid on a reimbursement basis and must be documented. Eligible costs include the following:

Personal Services – Personal services include direct salaries, wages, and fringe benefits of employees of the applicant for activities related to project work, including project management and grant administration. Fringe benefits must be outlined in the application and include the applicant's documented rate.

Non-Personal Services – Non-personal services include consultant/contractual services for direct project related costs, project management, limited grant administration, project-related supplies and materials, light refreshments for required public outreach events, necessary travel, and other goods and services required to complete the project.

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

Grant administration activities may include preparation of reports, vouchers, contract related administration and compliance with grant record keeping and reporting requirements. Grant administration may not exceed 15% of the award amount or \$50,000, whichever is less.

Subcontracts for consultant/contractual services should be competitively procured based on the applicable provisions of New York State General Municipal Law or the specified provisions adopted within the bylaws or charter of the non-profit organization, and additional requirements as described in this RFA.

Determining Total Project Cost and State Funding Request

When estimating the total project cost, the applicant should clearly identify the cost to complete each task included in the project scope of work. This may include costs associated with project management and grant administration. All costs documented as part of the ‘total project cost’ must be eligible costs.

As a reference, DOS generic work plans describing tasks necessary to prepare a County-wide Pre-Planning analysis, a BOA Plan, BOA Predevelopment activities or Phase II Environmental Site Assessments are available at: <https://dos.ny.gov/funding-bid-opportunities>. The budget may only include eligible costs described below which directly support the project scope of work.

To calculate the Total Project Cost:

Multiply the total project cost times the % State funding (0.90) = State Funds Requested

As an example, if the total project cost is \$200,000 to complete all tasks in the project scope of work, the State Funds Requested would be \$180,000.

*Ex: \$200,000 * 0.90 = \$180,000*

Applications requesting under \$100,000 in BOA grant funding will be disqualified and will not be scored.

Ineligible Costs

Ineligible costs include the following:

- (a) Indirect or overhead costs, such as rent, telephone service, administrative support not directly related to project work, computers, office equipment, general office supplies, general operations costs, membership fees, subscription costs.
- (b) Salaries and other expenses of elected officials.
- (c) Costs incurred prior to the contract start date or outside of the contract term.
- (d) Costs that are not adequately justified or that do not directly support the scope of work for the proposed project.
- (e) Other Environmental Protection Fund awards (including but not limited to WQIP, LWRP, Smart Growth, OPRHP EPF)

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.

VII. PRE-SUBMISSION REQUIREMENTS

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

Requirements for applications by Community-based organization applicants

- Community-based organizations shall submit a resolution adopted by the board of directors.
- Applications from Community-Based Organizations requesting funding to develop or update a BOA Plan must include a resolution of support from the city, town or village with planning and land use authority over the proposed BOA, except that in New York City, the resolution of support must be from the community board or boards for the district or districts in which the proposed BOA is located.
- All community-based organizations shall submit the Brownfield Opportunity Area Program: Community Based Organization Affirmation (2024) stating that such community-based organization does not include any not-for-profit corporation that has caused or contributed to the release or threatened release of a contaminant from or onto the brownfield site, or any not-for-profit corporation that generated, transported, or disposed of, or that arranged for, or caused, the generation, transportation, or disposal of contamination from or onto the brownfield site or that no more than twenty-five percent of the members, officers or directors of the not-for-profit corporation are or were employed or receiving compensation from any person responsible for a site under title thirteen or title fourteen of article twenty-seven of the environmental conservation law, article twelve of the navigation law or under applicable principles of statutory or common law liability.
- Community-Based Organizations must also register and be pre-qualified through the New York Statewide Financial System (SFS) on or before the application due date. Such applicants will be required to submit documentation of registration and pre-qualification with SFS, to include: (1) SFS Vendor ID; and (2) confirmation of Pre-Qualification Application Status. Information on this process is available at: <https://www.sfs.ny.gov/index.php/vendors>.

Any applicant requesting funding for Phase II Environmental Site Assessments within a State-Designated BOA must submit a *Site Assessment Supplement* form, completed in its entirety, and related attachments for each site for which funding is being requested. Substantially incomplete Site Assessment Forms will not be accepted.

Requirements for applications by non-municipal applicants

All non-municipal applicants or co-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 October 1, 2024, via email to opd@dos.ny.gov. The applicant's name and CFA# should be included in the subject line.

VIII. AWARD METHOD

Approximately \$2,000,000 is anticipated for award for this procurement. 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. Eligible applications will be scored and funds will be awarded in rank order until available funds are fully distributed.

A total score of 100 points is possible for any application, of which 80 points is derived from program criteria and 20 points from the Regional Economic Development Council (REDC) endorsement. REDC points are based on regional economic priorities and are assigned by the REDCs.

The Department may make an award in whole or in part and may offer partial funding if a particular component is ineligible or not ready to move forward or the budget requested is not adequately supported and justified. 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. If an awardee fails to

satisfactorily negotiate a proper contract within a reasonable period of time, that funding may be awarded to the next highest-scoring unfunded application.

In the event that another NYS agency fully funds a high scoring project through the CFA process, the awardee will receive funding from only one state agency. The Department will work with other NYS agencies to ensure that duplication of funding does not occur. If 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. Debriefings are expected to be conducted within 15 business days of the written request.

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

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

IX. APPLICATION EVALUATION CRITERIA

Applicants must meet the following base eligibility criteria:

Eligibility Criteria

- The application must be submitted by an eligible applicant as previously defined.
- The application must be for an eligible activity as previously defined.
- The minimum State assistance request must be at least \$100,000.
- BOA Site Assessment Supplement (SA) Applications will be evaluated on a pass/fail basis for eligibility based on the criteria outlined in Section V.3. The BOA Site Assessment Supplement must be completed in its entirety, and all related attachments for each site will be submitted with the application for which funding is being requested. Substantially incomplete Site Assessment Forms will not be accepted and deemed to have failed eligibility standards.

Applications that do not meet the base criteria above are ineligible and will be immediately disqualified and will not be evaluated further. Applications meeting the eligibility criteria will be reviewed and scored according to the extent to which they meet the program criteria presented below, up to the maximum points listed in the chart.

Criterion	Description	County-wide Pre-Planning	Planning for BOA Plan	Predevelopment	Phase II Environmental Site Assessment
Brownfield Opportunity (max. total 12 pts.)	Application clearly demonstrates the presence of known or suspected brownfields, including vacant, underutilized, deteriorated, and abandoned properties within the proposed area.	4	4		
	Application clearly demonstrates economic distress, risk to public health, and/or other negative impacts	4	4		

	associated with the known or suspected brownfields within the proposed area.				
	Application clearly identifies potential vacant and known or suspected brownfield sites that are strategic opportunities to stimulate economic development, community revitalization or the siting of renewable energy facilities and other public amenities.	4	4		
	Application clearly states how the proposed project will advance the vision and goals of the BOA program as defined by the community in the BOA Plan for the State-designated BOA area.			6	6
	Application clearly demonstrates advancement of revitalization on a strategic site (s) and will catalyze additional redevelopment activities in accordance with recommendations as documented in the State-designated BOA.			6	6
Indicators of Economic Distress (max. total 6 pts)	<p>Application identifies indicators of economic distress by census tract with each of the following indicators worth 2 points. A maximum of six (6) points will be awarded:</p> <ul style="list-style-type: none"> • Poverty rate over 15 percent • Median household income within proposed project area is less than 50 percent of the surrounding area's median income • Unemployment rate in project area is 125 percent or greater than the statewide unemployment rate • Twenty-five (25) percent or more of the area is vacant, abandoned, or otherwise available for industrial or commercial development. • Located in a federally-designated Opportunity Zone or an Environmental Zone (En-Zone) as defined by the New York State Department of Environmental Conservation; and/or • Has demonstrated disparity compared to the surrounding community when comparing income, property values, vacancy rates, or other relevant indicators of distress 	6	6	6	6
Local Capacity & Partnerships (max. total 6 pts)	An effective organizational and staffing structure exists to advance and complete the project.	2	2	2	2
	The project is supported by multiple entities, including but not limited to municipalities, community-based	2	2	2	2

	organizations, and/or NYC Community Boards is demonstrated.				
	The project will be carried out in joint partnership between a municipality and a community-based organization and/or a NYC Community Boards, and capacity of both entities has been demonstrated.	2	2	2	2
Public and Stakeholder Support (max. total 6 pts)	Local leadership supports and is committed to the goals of the BOA project.	2	2	2	2
	Applicant has clearly provided evidence of public support for the project.	2	2	2	2
	Applicant has clearly provided evidence of support from stakeholder(s) directly impacted by the BOA project.	2	2	2	2
Economic Value (max. total 8 pts.)	Application describes strategic opportunities to stimulate economic development through redevelopment of known or suspected brownfields and opportunities to leverage direct or indirect private investment is demonstrated	4	2	2	4
	Project will generate new and expanded economic activity in the proposed or State-Designated BOA and in the surrounding region.		2	2	
	Application includes a detailed description of planned or actual efficient use or protection of public investment in resources and infrastructure.	4	2	2	4
	The project has potential to increase housing choices, expand job opportunities and eliminate barriers to employment, especially in distressed and high-need areas.		2	2	
Environmental Value (max total 6 pts.)	Project clearly identifies the positive public health outcomes and/or how the result of such project will avoid or mitigate negative public health outcomes.	5	1	1	5
	Project demonstrates that concrete steps will be taken to address environmental conditions at known or suspected brownfield sites.	1	1	1	1
	Project is consistent with NYS CLCPA and will mitigate the impacts of climate change through reduction of carbon emissions and/or increase in community resiliency.		2	2	
	The project includes the potential to enhance, protect or restore natural resources and promote green infrastructure.		2	2	
Public Value (max. total 6 pts)	Project area will support a mix of land uses and concentration of new development in urban centers where infrastructure and public services are adequate.	2	2		
	Application identifies opportunities where dynamic, diverse neighborhoods may result from the development of transformative housing, transportation	2	2	2	2

	and community projects that meets the needs of a diverse population.				
	Application identifies opportunities to expand access to public open space, historic and cultural resources, and other public amenities in underserved areas.	2	2		
	Application clearly identifies how the proposed project will further public or private development or redevelopment in a State-designated BOA			2	2
	Application clearly identifies how the proposed project will create economic development, community revitalization, and provision of public amenities that benefit the BOA and larger community.			2	2
Scope of Work (max total 10 pts.)	The project scope of work is clear and concise and identifies all discrete tasks necessary to complete the scope of work and deliverables associated with each task.	2	2	4	4
	A detailed list of project deliverables is included in the application, that is consistent with program objectives.	2	2	3	3
	A detailed schedule is outlined including specific task costs, milestones, and completion dates for each task and the project.	2	2	1	1
	Application includes a detailed plan of the engagement process and approach to inclusive public participation that addresses how Diversity, Equity, Inclusion, Justice, and Accessibility will be included, and encourages participation from populations who are frequently underrepresented.	2	2	1	1
	Application has identified the public and stakeholders who would be affected by, or who can advance the project, and strategies to engage these groups in project planning and implementation.	2	2	1	1
Evaluation of Budget and Cost (max total 20 pts.)	Application explains in detail how the budget and costs were determined and identifies the person(s) responsible for compiling the budget including the relevant experience and background of all parties and the method/approach used to arrive at estimates.	5	5	5	5
	Application budget details all project components involved and the cost of each component. The budget is cost-effective, presents necessary and realistic costs, and does not contain extraneous or ineligible expenses.	5	5	5	5
	Proposed budget includes an explanation and cost breakdown of each budget line and the written explanation clearly support the applicants need for financial aid to achieve the desired project outcome.	5	5	5	5
	Budget narrative describes how the grant recipient will monitor expenditures throughout the contract period to ensure that the project stays on schedule and within the outlined budget.	5	5	5	5

Total	80	80	80	80
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Regional Support (*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. 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.

XI. CONTRACT REQUIREMENTS

New York Statewide Financial System

Grant applicants are encouraged to register through the New York Statewide Financial System. To register, log on to <https://www.sfs.ny.gov/index.php/vendors>.

Standard Cost Reimbursement Contract

Each successful applicant must enter into a State of New York Contract for Grants with the Department, which will include standard clauses required by the NYS Attorney General, Attachment A (including compliance with Article 15-A of the New York Executive Law), the agreed upon work plan and budget, and other applicable attachments as required. The contract will: 1) be subject to approval by the Attorney General and State Comptroller; 2) require submission of final products in both hard copy and electronic format; 3) be subject to reimbursement only upon proper documentation and compliance with reimbursement procedures and 4) be subject to all contractual requirements. A copy of the State of New York Contract for Grants including the attachments outlined above is available from the Department upon request.

To ensure that funds are awarded for projects 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 an acceptable 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 and any additional requirements imposed by the State as set forth in Attachment C of the State of New York Contract for Grants.

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify to the Department of State that applicable public bidding procedures of General Municipal Law §103 were followed for all service, labor, and

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

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

Not-for-Profit Community-Based Organizations

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

Community Boards (in New York City)

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

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

Record Retention and Audits

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

statements, consultant agreements, leases, and cost allocation plans, if applicable, (iv) receipt and deposit of advances and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

Minority and Women-Owned Business Enterprise Participation

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

Contract Period

Subject to the continued availability of funds in the budget, the contract period shall not exceed five years from the start of the contract. The earliest start date of contracts is April 1, 2024, No extensions are anticipated, however special consideration for extensions due to extreme extenuating circumstances may be granted on a case-by-case basis.

XII. SATISFACTORY PROGRESS

It is imperative that the grant recipient complete the project as set forth in the agreed upon work plan of the contract. 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, and completing plans, designs, 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 the awarded project. Applicants should not submit applications if they do not expect to initiate the project within a reasonable period of time and/or will not be able to complete the project within the time period cited in the application.

XIII. GENERAL SPECIFICATIONS

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

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

5. The Department reserves the right, including but not limited, to:
 - a) Reject any or all applications received in response to this RFA.
 - b) Withdraw the RFA at any time, at the agency's sole discretion.
 - c) Make an award under the RFA in whole or in part.
 - d) Disqualify any applicant whose conduct and/or application fails to conform to the requirements of the RFA.
 - e) Seek clarifications and revisions of applications.
 - f) Use application information obtained through site visits, management interviews and the State's investigation of an applicant's qualifications, experience, ability or financial standing, and any material or information submitted by the applicant in response to the Department's request for clarifying information in the course of evaluation and/or selection under the RFA.
 - g) Prior to the application due date, amend the RFA specifications to correct errors or oversights, or to supply additional information, as it becomes available.
 - h) Prior to the application due date, direct applicants to submit application modifications addressing subsequent RFA amendments.
 - i) Change any of the scheduled dates.
 - j) Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders.
 - k) Waive any requirements that are not material.
 - l) Negotiate with applicants responding to this RFA within the scope of the RFA to serve the best interests of the State.
 - m) If unsuccessful in negotiating a state contract with the selected applicant within an acceptable time frame, the Department may begin state contract negotiations with the next ranked qualified applicant(s) in order to serve and realize the best interests of the State.
 - n) Utilize any and all ideas submitted in the applications received.
 - o) Require clarification at any time during the procurement preprocess 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.
 - y) Not to make any awards pursuant to this RFA. This RFA does not commit the Department to award any contracts, to pay the costs incurred in the preparation of a response to this RFA, or to procure or contract for services.

Appendix 1

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

I. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION

NEW YORK STATE LAW

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

Business Participation Opportunities for MWBEs

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

The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com/>. 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 State of New York Contract for Grants, 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.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of age, race, creed (religion), color, national origin, sexual orientation, gender identity or expression, military status, sex, age, disability, predisposing genetic characteristic, familial status, marital status or status as a victim of domestic violence or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified or assisted in any proceeding under the Human Rights Law, 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 3 of Veteran's Law, 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 3.

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://dos.ny.gov/supplier-diversity>.

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.sdvoob@dos.ny.gov. The directory of certified SDVOB vendors can be found at: <https://online.ogs.ny.gov/SDVOB/search>.