

## RFA #14-LWRP-6

**New York State  
Department of State  
Office of Planning and Development  
Environmental Protection Fund  
Local Waterfront Revitalization Program  
2014 – 2015 REQUEST FOR APPLICATIONS**

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### Key Dates:

**RFA Release Date:** May 1, 2014. This Request for Applications (RFA) has been posted on the Department of State's (Department) public website at <http://www.dos.ny.gov/funding>.

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

Written questions will be accepted until May 30, 2014. Questions on this grant program should be directed by e-mail or in writing to Kenneth Smith, as shown below. When corresponding by e-mail, clearly indicate the subject as: "14-LWRP-6 RFA Questions". To the degree possible, each inquiry should cite the RFA section and paragraph to which it refers. Questions received by the above noted due date will be posted with answers on the Department's website at: <http://www.dos.ny.gov/funding>. This section will be updated during the solicitation period to remain current, with final responses posted by June 6, 2014.

**Workshop Dates:** Pre-application workshops will be held at several locations around the State. The workshop schedule and further information are available at <http://regionalcouncils.ny.gov/>. All those who would like to have the application process explained or have process-related questions are encouraged to attend.

**Applications Due:** Applications are due by 4:00 PM, June 16, 2014, and must be submitted through the web-based Consolidated Funding Application, as noted below.

**Contact:** Kenneth Smith  
NYS Department of State  
Office of Planning and Development  
99 Washington Avenue, Suite 1010  
Albany, NY 12231  
(518) 474-6000  
[Kenneth.Smith@dos.ny.gov](mailto:Kenneth.Smith@dos.ny.gov)

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

## **Local Waterfront Revitalization Program 2014 – 2015 REQUEST FOR APPLICATIONS**

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### **I. INTRODUCTION:**

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

- Preparing or Implementing a Local Waterfront Revitalization Program (LWRP)
- Redeveloping Hamlets, Downtowns and Urban Waterfronts
- Planning or Constructing Land and Water-based Trails
- Preparing or Implementing a Lakewide or Watershed Revitalization Plan
- Preparing or Implementing a Community Resilience Strategy

Within these grant categories, priority consideration will be given to proposals which advance the NY Rising Community Reconstruction Plans, and regional strategies developed by the ten Regional Economic Development Councils, including Opportunity Agenda strategies.

This is a reimbursement program. State assistance awarded and paid shall not exceed 50% of the total eligible project costs set forth in the application and as approved by the Department. Explicit demonstration of 50% match, within the application, is required. Failure to fully demonstrate this match (the amount, type and source) may result in a reduced award amount or in the disqualification of the application.

Applicants are required to demonstrate that projects are ready to move forward quickly. Contracts will not exceed three years. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis. To ensure timely completion, the Department encourages submission of an application for a discrete phase of a project. Applicants will be required to prepare and submit a project work schedule and timeline that includes major tasks and milestones with completion dates.

This Request for Applications is available on the Department's website: <http://www.dos.ny.gov/funding/>.

For general questions on this grant program, please contact Kenneth Smith, New York State Department of State, Office of Planning and Development, 99 Washington Avenue, Suite 1010, Albany, New York 12231, call (518) 474-6000, email [Kenneth.Smith@dos.ny.gov](mailto:Kenneth.Smith@dos.ny.gov).

### **II. ELIGIBLE APPLICANTS:**

Eligible applicants are villages, towns, or cities, and counties (with the consent and on behalf of one or more towns, villages, or cities) which are located along New York's coasts or inland waterways designated pursuant to Executive Law, Article 42. A list of coastal waterbodies and designated inland waterways is available at <http://www.dos.ny.gov/funding/>. Applicants may also partner with other organizations; however, only applications from eligible applicants will be evaluated for funding. If successful, all applicable procurement

requirements must be met for such partnerships. Applications submitted by not-for-profit organizations (including, but not limited to, community-based organizations, neighborhood groups) and for-profit organizations are ineligible and will not be scored.

Eligible applicants working in partnership with neighboring municipalities to address regional land use, waterfront revitalization, community development, and resource and/or environmental issues or opportunities are encouraged to apply. Only the municipality identified as the applicant (one village, town, city, or county) will be awarded a contract.

- For general planning needed to advance any of the eligible activities listed below, an applicant must be a village, town, city, or county with the consent and on behalf of one or more towns, villages, or cities located along New York's coast or a designated inland waterway.
- For project-specific planning, feasibility, design, and/or marketing needed to advance eligible activities, an applicant must be a village, town, city, or county with the consent and on behalf of one or more towns, villages, or cities, currently preparing a LWRP or component, or with an approved LWRP or component.
- For construction of projects needed to advance eligible activities, an applicant must be a village, town, city with an approved LWRP or the relevant LWRP component substantially completed, or a county with the consent and on behalf of one or more eligible town, village, or city with an approved LWRP or relevant LWRP component substantially completed.

Applicants that have been awarded Department grants in the past should have demonstrated responsible contracting with the Department to be eligible for an award from this procurement.

Amendments cannot 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.

### **III. FUNDING OPPORTUNITY:**

The Department is making approximately \$11.75 million available to fund applications for the Local Waterfront Revitalization Program grants. Approximately \$6,250,000 will be spent for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

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

### **IV. NEW YORK STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT**

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

## V. ELIGIBLE ACTIVITIES:

Successful revitalization strategies result from cooperation between multiple levels of government and the private sector focusing on key actions needed to improve a region's communities and waterfronts and related resources. Revitalization strategies can provide a regional framework to cooperatively address revitalization issues and to advance ongoing and emerging state initiatives, including but not limited to regional economic development, community sustainability, smart growth and environmental justice.

Applicants may prepare and/or implement a full LWRP or component strategies that are the framework for developing LWRPs, such as: strategies for redeveloping hamlets, downtowns and urban waterfronts; or planning or constructing land and water based trails; or preparing or implementing a lakewide or watershed revitalization plan. Applicants may also prepare or implement a community resilience strategy.

### ***Preparation or Implementation of a Local Waterfront Revitalization Program***

A LWRP is a comprehensive land and water use program that expresses a vision for the waterfront and refines state coastal policy to reflect local or regional needs. LWRPs play a significant role in addressing relevant issues for a given region or place, bringing to bear the resources and authorities of local governments and engaging the public in the management of coastal and waterfront resources and their use. LWRPs can also be prepared as a series of components, advancing completion of a program in stages by addressing the most significant issues first.

#### Planning

Applicants may apply for funding to prepare or complete a LWRP or component, including:

- developing public consensus for the future of a region or a community through community visioning, public meetings, focus groups, charettes, etc.
- identifying regional and local assets, opportunities and issues
- creating plans for implementation of projects of local or regional significance
- developing sustainable organizational capacity for project management, administration, and coordination to advance projects and support regional capacity building
- developing strategies or plans for one or more of the following: economic development; reuse of abandoned buildings and sites; tourism promotion and development; scenic byways; heritage areas; historic preservation; harbor management; public access; open space; natural resource protection/restoration; flooding and erosion management; dredged material management; local law development; coastal education

#### Implementation

Applicants with an approved LWRP, or relevant component substantially completed, may apply for implementation funding, including:

- project-specific planning, feasibility, design, or marketing needed to implement an approved LWRP, or substantially completed component (Design projects should be completed to a construction-ready stage, with permits in place and bid documentation prepared)
- constructing projects necessary to implement an approved LWRP, or a substantially-completed component of a LWRP under preparation
- developing systems for defining and measuring progress and success in community and waterfront revitalization
- developing regional, intermunicipal or local Geographic Information Systems to improve management of coastal areas and resources

### ***Redeveloping Hamlets, Downtowns and Urban Waterfronts***

Community and waterfront revitalization often focuses on specific areas of concentrated development within a community, notably hamlets, downtowns and formerly developed urban waterfronts. Redevelopment of these areas is essential for successful communities, encouraging consumers and investors to live, work, shop, recreate and invest in the community and to improve their physical and economic characteristics, in the context of the regional setting. The Department, working with other state agencies, provides both financial and technical assistance to prepare and implement revitalization strategies for hamlets, downtowns and urban waterfronts, with an emphasis on: spurring appropriate economic activity in previously-developed hamlet, downtown and waterfront areas; catalyzing appropriate economic activity through development of water-dependent and water-enhanced uses and activities; redeveloping underutilized abandoned buildings and brownfield sites; improving the recreational, cultural, environmental and economic value and quality of waterfronts; linking downtowns and hamlets with nearby waterfronts; or creating a positive image of a hamlet center, downtown commercial district, and/or waterfront.

#### Planning

Applicants may apply for funding for planning activities for hamlets, downtowns and urban waterfronts, including:

- preparation of a comprehensive redevelopment program
- development of public consensus for the future through surveys, public meetings, focus groups, data collection, charettes, and concept preparation
- inventory and analysis of existing resources and assets
- market analysis of the potential demand for residential, commercial/retail and support services that best serves residents, attracts visitors and encourages investors
- identification of linkages to the waterfront, tourism and recreation facilities, and neighborhoods
- identification of projects or actions to strengthen or recruit businesses and economic uses
- identification of potential funding sources and partners to implement projects and other actions
- examination and development of institutional tools needed to support revitalization, such as retail management organizations, business improvement districts, public-private partnerships, financial strategies and organizational structures
- development of local laws and land use regulations to foster a desired development strategy

#### Implementation

Applicants with an approved LWRP, or relevant component substantially completed, may apply for implementation funding, including:

- site-specific community and waterfront redevelopment projects, including design, construction and/or implementation activities related to identified projects in a comprehensive redevelopment program:
  - o existing conditions analysis
  - o preparation of concept plans and site redevelopment strategies
  - o project-specific design, cost estimating, construction and permitting documentation
  - o site preparation and construction of public amenities and infrastructure
  - o creation, expansion or improvement of public open spaces
  - o mixed-use/mixed-income redevelopment
  - o adaptive reuse of underutilized and abandoned buildings
  - o development of design guidelines and standards
  - o marketing, promotion and economic feasibility, including marketing campaigns, brochures website design, and RFP for developers

- o establishment of cultural, historic, arts and entertainment districts
- o acquisition due diligence (e.g., title work, appraisals, surveys)
- o streetscape and gateway improvements, including but not limited to: pedestrian walkways, sidewalks, and trails; crosswalks and other pedestrian safety enhancements
- development of systems for defining and measuring progress and success in hamlet, downtown, and urban waterfront redevelopment

### ***Planning or Constructing Land and Water-based Trails***

Planning or constructing land and water-based trails as part of a LWRP effort can create physical linkages between community centers, waterways, parks, open spaces, and historic, scenic and cultural sites. They provide recreational opportunities, enhance the economy, provide alternative means of transportation, enhance public access to waterfronts, and promote human health, community character and quality of life. Trails are linear corridors on land or water which link two or more points or can be a looped system with the same start and end point. Trails can be a stand-alone entity or part of a broader regional greenway network. Trails promote and preserve recreational, scenic, natural, cultural, historic, and agricultural resources and contribute to community revitalization by attracting users and promoting economic activity which supports local businesses and complements tourism development. Blueways are small boat and paddling routes that combine water-based recreation and environmental awareness and allow users to travel between designated stops that link New York's heritage sites, trails, greenways, historic resources, scenic byways, and revitalized community centers. Blueways contribute to regional economies. Individual blueway projects can be catalysts for local economic development and promote environmental preservation and stewardship by connecting communities to nearby waterways. Applicants should demonstrate how their proposal complements, builds on, or fills gaps in existing corridor or regional plans, or how their proposal creates a regionally-integrated land and water-based revitalization and development strategy.

#### Planning

Applicants may apply for grant funding to undertake the planning and design of local or regional land and water based trails (greenways and blueways), including:

- route identification and assessment of facilities and infrastructure
- identification of regional and local assets and attractions
- conceptual planning for launch sites, parking, and trail infrastructure
- plans to ensure sustainable organizational capacity for project management, administration, coordination to advance land and water-based trail projects, and regional capacity building
- development of systems to track implementation and measure success

#### Implementation

Applicants with an approved LWRP or relevant component substantially completed may apply for grant funding to construct land and water based trails, including:

- design/construction of trails, launch sites, and directly related infrastructure and improvements
- greenway or blueway trail marketing and promotion

### ***Preparing or Implementing a Lakewide or Watershed Revitalization Plan***

Local business, recreation, tourism, agriculture, industry, and economic development are dependent on high-quality water resources. Often, for communities surrounding a lake or embayment, or those bordering a river reach, water quality significantly contributes to their economy. Regions are similarly dependent on their natural assets. Guiding activities to protect and promote natural and economic assets on an intermunicipal,

lakewide or watershed basis can be an effective way to make the most of human and financial resources, to address concerns and to achieve shared goals.

Preparing lakewide or watershed revitalization plans and advancing on-the-ground projects on a cooperative basis with significant public engagement has been shown to be an effective way to achieve local, regional and statewide goals to protect and sustain natural resources and advance economic development. Networking with experienced local governments, agencies and organizations leads to efficiencies that minimize the costs of protecting and restoring natural assets. The Department's guidebooks on waterfront revitalization and watershed planning are available at <http://www.dos.ny.gov/opd/publications.html>

Funds are being made available for the preparation and implementation of intermunicipal plans that identify and assess key assets, problems, threats, and municipal land use development controls and practices, emphasizing the connection between water quality protection and economic health. Projects funded under this category are expected to have significant regional benefits. A community that already has a waterfront revitalization program or a watershed plan, or both, may apply to integrate such programs and plans into a more holistic lakewide or watershed revitalization plan.

### Planning

Applicants may apply for grant funding to prepare or update a lakewide or watershed plan, including:

- visioning to identify the connections between water quality protection, waterfront revitalization and economic health
- conducting public participation to develop consensus on issues and actions needed to advance revitalization and water quality goals
- development of sustainable municipal or intermunicipal organizational capacity for project management, administration, coordination and technical assistance
- inventory, analyze and characterize the lakewide area or watershed, including land cover, land and water uses, and infrastructure
- identification and assessment of key natural, cultural and economic assets
- identification of problems, impairments and threats and assessment of their causes
- assessment of land and water use controls (laws, programs and practices) to protect water quality and guide appropriate development
- quantifying the benefits of high water quality to local areas and the regional economy
- identification of issues and opportunities
- preparation of strategies to protect water quality and promote sustainable economic development and community revitalization
- identification of local, state and other technical and financial resources needed for implementation of proposed projects and actions
- planning for the protection and promotion of natural assets on an intermunicipal, lakewide or watershed basis
- prioritization of projects and actions on an intermunicipal basis to revitalize a lakewide, or watershed area
- development of systems to track implementation and measure and report on success

### Implementation

Applicants with an approved or substantially completed LWRP or lakewide or watershed plan may apply for grant funding to implement such a program or plan, including but not limited to:

- implementation of priority actions to revitalize waterfronts and protect and restore water resources and water dependent uses
- amendment or adoption of local land and water use controls to provide coordinated lakewide or watershed management for revitalizing waterfronts and protecting water quality
- development of education, outreach/training materials and programs to reduce causes of impairments and threats to water quality, and to promote waterfront revitalization
- advancing projects that preserve or restore natural landscapes, that protect water quality and catalyze waterfront revitalization
- feasibility or market analysis, design or construction, water quality and waterfront revitalization projects

### ***Preparing or Implementing a Community Resilience Strategy***

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

Eligible municipalities may apply for grant funding to advance projects and strategies in an approved NY Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan, to integrate their NYRCR Plans or NY Rising Countywide Resiliency Plan with existing LWRPs or components of an LWRP, or to prepare a resilience strategy consistent with the NYRCR Program.

Planning or implementation projects should fall into, and be informed by, one of the six Recovery Support Functions created within the National Disaster Recovery Framework by the Federal Emergency Management Agency (<http://www.fema.gov/recovery-support-functions>). These are: Community Planning and Capacity Building; Economic Development; Health and Social Services; Housing; Infrastructure; Natural and Cultural Resources. Strategies should consider issues such as risk assessment, combined benefits, critical facilities, value to the community, and coordination of timing with other improvements within a regional context.

#### **Planning**

Applicants may apply for grant funding to prepare a resilience strategy consistent with the NYRCR Program as shown in the guidance that can be found at:

[http://stormrecovery.ny.gov/sites/default/files/documents/Guidance\\_for\\_Community\\_Reconstruction\\_Plans.pdf](http://stormrecovery.ny.gov/sites/default/files/documents/Guidance_for_Community_Reconstruction_Plans.pdf).

Additionally, grants may be awarded to eligible communities for planning activities such as:

- Assessment of risks associated with coastal/riverine flooding and erosion, including impacts to wetlands, habitats, and other natural resources
- Assessment of risks to critical infrastructure and systems such as water supply, sewage treatment plants, combined sewer overflows, electric utilities, transmission lines, dams, shoreline stabilization infrastructure and other in-water structures, and transportation systems
- Assessment of potential impacts to economic sectors, including recreation, tourism and agriculture
- Assessment of relevant landscape attributes, such as impervious surface area, vegetated stream buffers, flood storage capacity and forested land cover, to improve resilience

- Identification of strategies related to climate change/sea level rise adaptation that can be implemented through both public and private actions
- Identification of storm mitigation measures to reduce the risk of doing business in the community
- Identification of strategies to make health and social services more resilient
- Identification of strategies/projects that will reduce the vulnerability of infrastructure to storms
- Identification of opportunities for modifying existing or developing new laws, regulations, policies and practices to reduce a community's vulnerability to climate change and sea level rise impacts and improve emergency preparedness, pre-storm management or response protocols
- Creation of development tools to optimize land use patterns to meet the needs of vulnerable populations and future growth demands
- Development of local or intermunicipal Geographic Information Systems to improve impact prediction and assessment, and mitigation and adaptation planning
- Identification of public education efforts concerning potential long term effects from storm damage, such as mold and contaminated soils

Eligible municipalities with an approved NY Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan may apply for grant funding to integrate their Plan with existing LWRPs or component.

#### Implementation

Applicants with an approved LWRP, or relevant component substantially completed, may apply for grant funding to advance projects in an approved NY Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan, related to building or improving community resilience while advancing LWRP policies. Grants may be awarded for projects such as:

- Implementation of priority actions to improve community resilience and reduce risks associated with coastal/riverine flooding, erosion and storm events
- Amendment or adoption of local land and water use controls to improve community resilience to storm events
- Development of education, outreach/training materials and programs to improve community resilience to storm events and potential impacts
- Engineering, design, and/or construction of projects to make public facilities more resilient to potential storm impacts
- Projects for the conservation, restoration, and enhancement of natural protective features and processes such as flood plains, wetlands, vegetated buffers, living shorelines, dunes and sediment transport
- Green infrastructure projects that address water quality and stormwater management

## **VI. FUNDING RESTRICTIONS**

### **Local Match**

State assistance awarded and paid shall not exceed 50% of the total eligible cost for the project, see Part IX. Contract Requirements for additional detail. Match required is 100% of total grant award, based on total direct project costs. The total eligible cost of the project is the total of costs set forth in the grant application, less any federal assistance and other state assistance from the Environmental Protection Fund. In addition, the

Environmental Protection Fund grants provided under this program may not be used as the local match for any federal grants without explicit permission from the Department. State assistance payments will be made to grant recipients based on actual expenditures for eligible costs up to the amount of the grant awarded.

### **Volunteer Services**

Volunteer services included in the local match are limited to those that significantly contribute to the completion of project tasks. Documented volunteer services (non-professional) may be valued at up to \$28.73 per hour, based on a starting pay rate commensurate with skills offered and services provided. Detailed accurate records must be kept to account for volunteer services to be included as local match.

### **Donated Professional Services**

Professional services donated to the project can be valued at a reasonable rate appropriate to the profession in the project location. Detailed accurate records must be kept to account for donated professional services to be included as local match.

### **Construction**

Construction must be on public property, or where a permanent public interest such as conservation easement has been established.

### **Eligible Costs**

Costs must be adequately justified and directly support the project. Proposed total project costs must be essential to project completion.

Grant funds may be used for the following costs:

**Direct salary costs** - including wages, salaries, fringe benefits, and supplemental compensation paid to employees of the municipality for personal services.

**Direct non-salary costs** - including consultant and contractual services, costs for printing, travel, equipment, materials, supplies, and other goods and services, essential to project completion and dedicated 100% to the project.

**Note: Land acquisition** – land acquired within three years prior to the contract start date or within the executed contract term may be used only as local share for construction projects (i.e., not to exceed 50% of the total cost of the project).

### **Ineligible Costs**

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

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

**Salaries and other expenses of elected officials**, whether incurred for purposes of project direction, execution, or legislation. However, volunteer services contributed by these officials to the project may be used as local match, provided that such services are outside the performance of their official duties.

**Fund raising events/expenses****Federal assistance****Other Environmental Protection Fund awards****Land acquisition (except as noted above)****Taxes, insurance, fines, deficit funding**

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

**Contingency costs****Lobbying expenses****Cost incurred prior to the contract start date****Costs that are not adequately justified or that do not directly support the project**

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

**Sub-contracts**

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

**VII. AWARD METHOD**

A total score of 100 points is possible for any application, of which up to 80 percent would be derived from program criteria and up to 20 percent from Regional Economic Development Council (REDC) endorsement.

An unadjusted maximum score of 100 points is possible based on programmatic criteria. Averaged scores will be multiplied by 0.8 to arrive at an 80% programmatic score, or up to 80 points. To this programmatic score, up to 20 points will be added based upon the REDC endorsement score. REDC points are based on regional economic priorities.

The Department will fund the highest scoring applications until the allocated funds are exhausted. Geographic distribution of grant proposals, information from interagency discussion, applicant's performance under previously awarded EPF LWRP grants, and consistency with the Smart Growth Public Infrastructure Policy Act will be factors used in determining successful grant proposals. Up to \$11.75 million is anticipated for awards for this procurement. Approximately \$6,250,000 will be spent for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

- densely-populated and have sustained physical deterioration, decay, neglect, or disinvestment, or

- where a substantial proportion of the residential population is of low income, or is otherwise disadvantaged and is underserved with respect to the existing recreational opportunities

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 award no funding to an applicant if its application cannot be fully funded within the funds remaining, in which case 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 in 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.

Opportunity to be debriefed will be provided, upon request, to unsuccessful applicants. Requests must be made in writing within 30 days of notification of status of award.

## **VIII. APPLICATION EVALUATION CRITERIA**

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

### **Minimum Criteria**

Eligible applicants are villages, towns, or cities, and counties with the consent and on behalf of one or more towns, villages, or cities which are located along New York's coasts or designated inland waterways. Failure to meet this criterion will result in immediate disqualification of the application, which will not be further evaluated.

### **Program Criteria**

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

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

#### **Vision (maximum of 4 points)**

Will result in or advance a vision creating significant opportunities for addressing resolution of problems in the context of:

- a Regional Economic Development Strategy, including Opportunity Agenda strategies
- a New York Rising Community Reconstruction (NYRCR) Plan
- a regional or local vision for capitalizing on community assets

#### **Process (maximum of 8 points)**

##### **Public Engagement (maximum of 4 points)**

- Describes an effective approach and process that will be followed to ensure ongoing public participation and engagement during project development, including the involvement of partnering municipalities and the general public
- Demonstrates that the public and stakeholders who would be affected by, or who can advance the project, will be engaged in project planning and implementation

**Local Commitment and Previous Performance (maximum of 4 points)**

- Demonstrates a committed local leadership and provides an ongoing educational component for local officials and/or community residents
- Demonstrates strong support for addressing regional land use, community development, and resource and/or environmental opportunities
- Demonstrated high quality performance under previous contracts with the Department and completed work within three years

**Strategies (maximum of 36 points)****Advancing NY Rising Community Reconstruction Program (maximum of 4 points)**

- Advances a project, action, or strategy in an approved New York Rising Community Reconstruction (NYRCR) Plan or NY Rising Countywide Resiliency Plan

**Advancing REDC Strategies (maximum of 4 points)**

- Advances the strategies and priorities of a REDC, including Opportunity Agenda strategies

**Regional Significance (maximum of 4 points)**

- Improves or protects natural, cultural or economic resources of regional significance
- Ensures an appropriate balance between development, open space and natural resource protection within the regional context
- Advances efforts to resolve shared issues through creative intermunicipal partnerships
- Redevelops and/or revitalizes a regional center
- Provides facility of greater than local importance
- Advances the completion or implementation of a plan or strategy that addresses critical issues and opportunities of regional significance

**Local Significance (maximum of 4 points)**

- Creates or implements a plan for community resiliency
- Protects, preserves, enhances or restores archeological, historic and/or cultural resources
- Implements public amenity that is an identified priority for a community
- Addresses environmental justice issues
- Advances the completion or implementation of a plan or strategy that addresses critical issues and opportunities of local significance

**Public Value (maximum of 4 points)**

- Promotes or implements strategies that include integration of all income, ethnic and age groups
- Ensures predictability in land use regulations and procedures

- Incorporates and advances pedestrian, bicycle and paddling trails that connect people to parks, nature and public spaces; community landscaping using native species; and accessible neighborhood parks
- Advances the completion of a plan or strategy that enhances the quality and availability of public resources within a community or region

**Community Livability (*maximum of 4 points*)**

- Improves or expands visual/physical access to public resources, provides new/enhanced public spaces, or enhances community character/visual environment
- Improves or expands water-dependent recreation opportunities

**Sustainability (*maximum of 4 points*)**

- Ensures that governmental decision-making is based on sound science and considers cumulative effects
- Promotes a mix of land uses and concentrates new development in urban centers where infrastructure and public services are adequate
- Incorporates and advances green infrastructure through preservation and restoration of natural landscapes, or green infrastructure policies that reduce watershed imperviousness and preserve groundwater infiltration
- Provides a framework that encourages development or redevelopment of communities in sustainable locations

**Economic Value (*maximum of 4 points*)**

- Generates economic activity, creates immediate and future jobs, offers realistic economic development potential, or contributes to restoration of municipalities' tax bases
- Advances the completion of a plan or strategy that enhances economic vitality in a community or region
- Provides for downtown/hamlet revitalization
- Supports water-dependent commercial and industrial uses, tourism development or agriculture

**Natural Resource Value (*maximum of 4 points*)**

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

**Implementation (*maximum of 12 points*)****Scope of Work (*maximum of 4 points*)**

- Proposal clearly defines what is to be done, where and how it will be done, who will do it, and when it will be completed
- Project deliverables are clearly defined and consistent with program objectives
- Is an integral part of a set of actions that comprehensively addresses an issue or opportunity

- Application clearly represents/articulates a single phase or distinguishes between phases where applicable

**Time Frame (*maximum of 4 points*)**

- Project will be completed within a maximum of three years. Application demonstrates sufficient experience and ability of key project personnel to successfully complete the project within the time allowed
- Project presents a clear and realistic schedule and time line that includes major tasks, milestones and completion dates. Application demonstrates that the project is ready to move forward quickly

**Project Readiness (*maximum of 4 points*)**

- Demonstrates an existing or proposed intermunicipal or other organizational structure adequate to advance and sustain implementation of the project
- Demonstrates work needed to advance the proposed project phase has been completed (for example, a team has been organized to begin project planning, or designs have been prepared, permits and/or other approvals obtained to facilitate construction)

**Leveraging (*maximum of 12 points*)****Resources (*maximum of 4 points*)**

- Complements related activities and projects and leverages funding under the Environmental Protection Fund, other New York State grant programs, federal grant programs, or other sources of public, not-for-profit and private funds
- Makes efficient use of/protects public investment in resources and infrastructure
- Necessary to enable community and/or region to build public/private partnerships or leverage financial resources to make better use of private funds, including programs available through the CFA

**Advancing Plans (*maximum of 4 points*)**

- Advances an approved or substantially completed LWRP, or component
- Advances completion of a new phase of a project previously funded by EPF LWRP
- Advances a Brownfield Opportunity Area (BOA) plan, where there is a completed area-wide analysis (Nomination) and the proposed project advances the stated community vision

**Development of Partnerships (*maximum of 4 points*)**

- Demonstrates a record of developing public/private partnerships
- Creates or advances regional, intermunicipal, intergovernmental, public, private, or not-for-profit partnerships to address development issues
- Creates or advances regional, intermunicipal and intergovernmental partnerships in order to increase efficient, planned, and cost-effective delivery of government services

**Performance Measures (*maximum of 8 points*)**

- Demonstrates how the project will be monitored and progress recorded to achieve milestones and complete individual products and deliverables according to the project schedule and timeline
- Proposes logical metrics to quantify anticipated benefits of the project

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

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

- Application describes and documents how the budget and cost were determined. Identifies the person(s) responsible for compiling the budget including relevant experience and background of all parties and the method/approach used to arrive at estimates. *(maximum of 5 points)*
- Costs meet eligibility requirements of the program. In addition to documenting eligibility of costs, budget narrative clearly demonstrates what matching local funds will be provided. *(maximum of 5 points)*
- Costs clearly relate to and support activities in the proposed work plan. Budget narrative demonstrates logical justification for all expenses proposed. *(maximum of 5 points)*
- Budget includes adequate detail for all project components involved, is cost-effective, presents necessary and realistic costs, and does not contain extraneous or ineligible expenses. Budget is accurate and thorough. Budget narrative includes an explanation for the estimate of each budget line and clearly supports the applicant's need for financial resources requested to achieve project outcome. Budget narrative describe show the grant recipient will monitor expenditures during the life of the project to ensure that the project stays on schedule and within budget, *(maximum of 5 points)*

Note: Demonstration of local match comprising 50% of the total project cost is required at the time of application. Awards may be reduced or not made if applicant fails to document sufficient, eligible match.

**Regional Economic Development Council Endorsement**

Additional points (up to 20 points) may be given to grant proposals that are determined to advance strategic plans developed by the Regional Economic Development Council for the area where the project is located.

**IX. CONTRACT REQUIREMENTS****New York State Grants Gateway**

Successful grant applicants will be required to register through the New York State Grants Gateway. To register, log on to <http://grantsreform.ny.gov>.

**Standard Cost Reimbursement Contract**

Each successful applicant must enter into a standard cost reimbursement contract with the Department of State which includes this Request for Applications, the successful applicant's proposal, an agreed upon work program, any other attachments or exhibits, and the standard clauses required by the NYS Attorney General for all state contracts including Attachment A along with Article 15-A of the New York Executive Law. All necessary municipal resolutions and certifications must be received prior to entering into contracts. 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 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

amount of time. There will be no contract advance available to grantees. Expenses incurred prior to the start date of the state contract cannot be reimbursed.

### **Compliance with Procurement Requirements**

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

The municipal attorney, chief legal officer or financial administrator of the municipality shall certify to the Department 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 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.

### **Record Retention and Audits**

The successful applicant shall establish and maintain, in paper or electronic format, complete and accurate books, records documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract with the Department of State. Payment requests may be subject to periodic reviews. The successful applicant will be required to agree to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date (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 advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

### **Minority or Women-Owned Business Enterprise Participation**

Applicants will be required to comply with and certify that the requirements of Article 15-A of the New York State Executive Law: Participation by Minority Group Members and Women with Respect to State Contracts by providing opportunities for MBE/WBE participation have been met and further certify that the applicant will maintain such records and take such actions necessary to demonstrate such compliance throughout the completion of the project. New York State Executive Law Article 15-A, requires, among other things, that the Department of State establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises (“MWBE”) and the employment of minority groups members and women in the performance of New York State contracts. The Department recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of DOS contracts. For purposes of this solicitation, the Department hereby establishes an overall goal of 20% for MWBE participation, 10% for Minority-Owned Business Enterprises (“MBE”) participation and 10% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). A successful applicant, contractor (“Contractor”) on the subject contract (“Contract”) must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that the Department may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>. For guidance on how the Department will determine a Contractor’s “good faith efforts,” refer to 5 NYCRR §142.8. See the following attachments for further detail, Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women, Form A, MWBE Utilization Plan, and Form B Staffing Plan that will need to be completed by successful applicants.

### **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, 2014. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis.

## **X. SATISFACTORY PROGRESS**

It is imperative that the grant recipient complete the project as set forth in the agreed upon work program 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 program within the time allocated for their completion. The Department may recapture awarded funds if satisfactory progress is not being made on the implementation of a grant project. Applicants should not submit applications if they do not expect to initiate the project within a reasonable time period after receiving an executed contract and will not be able to complete the project within the time period cited in the application.

## **XI. OTHER GRANT REQUIREMENTS FOR CONSTRUCTION PROJECTS**

Grant funded work must be done on public property or where there is a permanent public interest established, such as a conservation easement, and the predominant purpose is to provide a public benefit. Property where improvements are made must remain available to the public and provide direct public benefit for the intended useful life of the project. Property sold or transferred prior to the useful life may require that grant funds are returned to the Department.

Projects intended to be open to the public must be open to the general public and not limited to residents of the municipality receiving a grant. Signage to this effect must be provided at these sites.

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

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

- State Environmental Quality Review Act
- State Freshwater and Tidal Wetlands Acts
- US Army Corps of Engineer permits
- Coastal Erosion Hazards Areas Act
- Floodplain Management criteria
- State and Federal laws and regulations for Historic Preservation
- Coastal Zone Management Act (federal)

## **XII. GENERAL SPECIFICATIONS**

1. By signing the “Application Form” each applicant attests to its express authority to sign on behalf of the applicant and to the accuracy of the information contained therein. Applications containing false or inaccurate information may be disqualified upon verification of information by the Department of State (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 proposal 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 proposal 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 proposals 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 applicant's proposal and/or to determine an applicant's compliance with the requirements of the solicitation
  - p. Waive or modify minor irregularities in applications received
  - q. Not to fund an application that fails to submit a clear and concise work plan or budget

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION  
OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED  
BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP  
MEMBERS AND WOMEN**

**NEW YORK STATE LAW**

Pursuant to New York State Executive Law Article 15-A, the Department of State (hereinafter "DOS") recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of DOS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that DOS establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

**Business Participation Opportunities for MWBEs**

For purposes of this solicitation, DOS hereby establishes an overall goal of 20% for MWBE participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that DOS may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at:

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

For guidance on how DOS will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

I. MWBE Utilization

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with 5 NYCRR §142.8:

- A. Bidders are required to submit a MWBE Utilization Plan on Form A with their bid or proposal. Any modifications or changes to the 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 DOS.
- B. DOS will review the submitted MWBE Utilization Plan and advise the Bidder of DOS acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the DOS:

Office of Affirmative Action Programs  
99 Washington Avenue, Albany, New York 12231  
Phone: (518) 473-2507; Fax (518) 473-9211

a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DOS to be inadequate, DOS shall notify the Bidder and direct the Bidder

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 bid or proposal.

- D. DOS may disqualify a Bidder as being non-responsive under the following circumstances:
- a) If a Bidder fails to submit a MWBE Utilization Plan;
  - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
  - c) If a Bidder fails to submit a request for waiver; or
  - d) If DOS determines that the Bidder has failed to document good faith efforts.

Contractors shall 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 DOS, but must be made no later than prior to the submission of a request for final payment on the Contract.

## II. Non-Compliance

- A. In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to make good faith efforts to meet the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and DOS may withhold payment from the Contractor 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.
- B. In addition, 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.

## Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 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 Contractor, shall 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.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form B) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the DOS, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

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 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.

## FORM A M/WBE UTILIZATION PLAN

**INSTRUCTIONS:** This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan represents the anticipated M/WBE usage for the contract and must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

**Offeror's Name:**

**Federal Identification No.:**

**Address:**

**Project/Contract No.:**

**City, State, Zip Code:**

**M/WBE Goals in the Contract:** MBE 10% WBE 10%

Telephone No.:

Region/Location of Work:

1. Projected Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/Supplies/Services and intended performance dates of each component of the contract.
<b>A.</b>	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
<b>B.</b>	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

**6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER.**

<p><b>My firm proposes to use the M/WBEs listed above.</b></p> <p><b>PREPARED BY (Signature):</b> <b>DATE:</b></p> <p><b>NAME AND TITLE OF PREPARER (Print or Type):</b></p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20%;"><b>TELEPHONE NO.:</b></td> <td style="border: 1px solid black;"><b>EMAIL ADDRESS:</b></td> </tr> <tr> <td colspan="2" style="text-align: center; border: 1px solid black;"><b>FOR M/WBE USE ONLY</b></td> </tr> <tr> <td style="border: 1px solid black;"><b>REVIEWED BY:</b></td> <td style="border: 1px solid black;"><b>DATE:</b></td> </tr> </table> <p><b>UTILIZATION PLAN APPROVED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>Date:</b>  <b>Contract No.:</b> <span style="float: right;"><b>Project No. (if applicable):</b></span></p> <p><b>Contract Award Date:</b>  <b>Estimated Date of Completion:</b>  <b>Amount Obligated Under the Contract:</b>  <b>Description of Work:</b></p> <p><b>NOTICE OF DEFICIENCY ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>Date:</b>_____</p> <p><b>NOTICE OF ACCEPTANCE ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>Date:</b>_____</p>	<b>TELEPHONE NO.:</b>	<b>EMAIL ADDRESS:</b>	<b>FOR M/WBE USE ONLY</b>		<b>REVIEWED BY:</b>	<b>DATE:</b>
<b>TELEPHONE NO.:</b>	<b>EMAIL ADDRESS:</b>						
<b>FOR M/WBE USE ONLY</b>							
<b>REVIEWED BY:</b>	<b>DATE:</b>						
<p>SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.</p>							

## FORM B

### STAFFING PLAN

**Submit with Bid or Proposal – Instructions on page 2**

*Complete this form only for the anticipated work force to be utilized on the State contract.*

<b>Solicitation No.:</b>	<b>Reporting Entity:</b>	<b>Report includes Contractor's/Subcontractor's:</b> <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
<b>Offeror's Name:</b>		<input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor <b>Subcontractor's name</b> _____
<b>Offeror's Address:</b>		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification														
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)		
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

<b>PREPARED BY (Signature):</b>	<b>TELEPHONE NO.:</b>	<b>DATE:</b>
	<b>EMAIL ADDRESS:</b>	
<b>NAME AND TITLE OF PREPARER (Print or Type):</b>		<b>Submit completed with bid or proposal</b>

**General instructions:** All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (FORM B) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

**Instructions for completing:**

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the DOS Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**OTHER CATEGORIES**

- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female