

RFA #17-LWRP-3

**New York State
Department of State
Office of Planning and Development
Environmental Protection Fund
Local Waterfront Revitalization Program
2017 – 2018 REQUEST FOR APPLICATIONS**

Key Dates:

- RFA Release Date:** May 1, 2017. 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 June 23, 2017. Questions regarding this grant program should be submitted by e-mail to opd@dos.ny.gov or in writing to the address shown below. When corresponding by e-mail, clearly indicate the subject as: "17-LWRP-3 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 July 7, 2017.
- 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, July 28, 2017, and must be submitted through the web-based Consolidated Funding Application, as noted below.
- Contact:** NYS Department of State
Office of Planning and Development
Attn: LWRP RFA Questions
99 Washington Avenue, Suite 1010
Albany, NY 12231
opd@dos.ny.gov
- Application Submission:** To apply, or to access related Consolidated Funding Application materials, go to <http://regionalcouncils.ny.gov/>

Local Waterfront Revitalization Program 2017 – 2018 REQUEST FOR APPLICATIONS

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)
- Updating an LWRP to Mitigate Future Physical Climate Risks
- Redeveloping Hamlets, Downtowns and Urban Waterfronts
- Planning or Constructing Land and Water-based Trails
- Preparing or Implementing a Lakewide or Watershed Management Plan
- Implementing a Community Resilience Strategy
- Celebrating the Bicentennial of the Erie Canal - Improving Public Waterfront Access for Canal Communities

Within these grant categories, proposed projects that are part of the following initiatives will be looked upon favorably:

Downtown Revitalization Initiative

Priority consideration will be given to proposals which demonstrate they will advance downtown revitalization through transformative housing, economic development, transportation and community projects that will attract and retain residents, visitors and businesses - creating dynamic neighborhoods where tomorrow’s workforce will want to live, work, and raise a family.

Opportunity Agenda Related Projects

Each REDC may develop region-wide strategies, or may focus its efforts by designating one or more chronically distressed community as an “Opportunity Area.” Projects seeking to apply CFA funds for the purpose of eliminating barriers to skilled employment by poor people in your region, as identified by the Opportunity Agenda and Strategic Plan, should provide evidence of such in their application.

Veterans’ Related Projects

New York State is home to more than 900,000 veterans, 72 percent of whom served in combat. In 2014, the REDCs were asked to create a Veterans Work Group to promote participation by Veterans in the CFA, and develop strategies to encourage other potential CFA applicants to include workforce goals related to Veteran’s employment. This is part of a comprehensive approach to improving services to the veterans and military families in New York. Applicants should provide any information that links their project proposals to the Veteran’s Initiative strategies identified by the REDCs.

The EPF LWRP is a reimbursement program. State assistance awarded and paid shall not exceed 75% of the total eligible project costs set forth in the application and as approved by the Department, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible project costs set forth in the application and as approved by the Department. Failure to explicitly specify in the application (including the budget) the amount, type and source of eligible local match, and that it has been secured, 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. A contract period will not exceed five years. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis and only if significant progress has been demonstrated. Only applications for discrete phases of a project (e.g. planning, design, construction) that can be completed within five years will be considered. Applicants will be required to prepare and submit a project work schedule and timeline that includes major tasks and milestones with completion dates for each.

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

II. ELIGIBLE APPLICANTS:

Eligible applicants are villages, towns, or cities, and counties (with the consent and on behalf of one or more villages, towns, or cities) which are located along New York's coasts or inland waterways as designated pursuant to Executive Law, Article 42. The 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 and 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, or city, or a county with the consent and on behalf of one or more villages, towns, cities) will be awarded a contract.

- For general planning needed to advance any of the eligible activities listed below in Section V, an applicant must be a village, town, city, or county with the consent and on behalf of one or more villages, towns 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 villages, towns 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 village, town, 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 \$15.2 million available to fund applications for the Local Waterfront Revitalization Program grants, with up to \$2 million for updates to existing LWRPs to mitigate future physical climate risks. Approximately \$10 million will be awarded for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

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

IV. NEW YORK STATE SMART GROWTH PUBLIC INFRASTRUCTURE POLICY ACT

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

V. ELIGIBLE ACTIVITIES:

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, public health outcomes and environmental justice. Achieving revitalization goals requires sufficient local and regional capacity to overcome obstacles. 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; land and water based trails; lakewide or watershed management; and community resilience. To accomplish these activities, applications may include local or regional capacity building to overcome obstacles that inhibit realizing revitalization goals, by strengthening abilities within a community, enlisting external professional assistance, or developing sustainable organizational capacity.

Therefore, local or regional capacity building can be defined as strengthening abilities within a community, enlisting external professional assistance, or developing long term sustainable organizational capacity to overcome obstacles that inhibit realizing long term revitalization goals to accomplish the grant activities listed in the RFA: Preparing or Implementing a Local Waterfront Revitalization Program; Updating an LWRP to Mitigate Future Physical Climate Risks; Redeveloping Hamlets, Downtowns, and Urban Waterfronts; Planning or Constructing Land and Water-based Trails; Preparing or Implementing a Lakewide or Watershed Management Plan; Implementing a Community Resilience Strategy; and enable the community to become self-sustaining for the future. Allowable activities under capacity building shall be within the scope of the RFA and undertaken in direct furtherance of the purpose of the grant application.

Preparing or Implementing a Local Waterfront Revitalization Program

An 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 an LWRP or component, including:

- developing public consensus on a vision 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 strategies or plans for one or more of the following: economic development; community resilience; 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; energy efficiency measures, and renewable energy
- preparing a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) contained in an existing LWRP or one under preparation
- developing resilience strategies consistent with the NY Rising Community Reconstruction (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.

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

Updating an LWRP to Mitigate Future Physical Climate Risks

Climate change, sea level rise, drought, increased frequency and intensity of storms, and the resultant effects from these weather related changes challenge communities and impact services on which residents and tourists depend. The health of communities rests on their ability to reduce or avoid harm and rebound from severe weather impacts when they occur. Communities can move forward successfully only when they are

prepared to respond quickly and strategically to changing conditions. An emphasis should be placed on regional strategy development.

Applicants with an existing LWRP may apply for grant funding to update their LWRP to mitigate future physical climate risks. As part of updating an existing LWRP, an eligible community may consider planning activities such as:

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

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 communities to be successful in 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 encourage economic uses
- identification of strategies to improve walkability and bikeability
- 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 mix of land uses
- preparation of Transit Oriented Development plans to promote compact, walkable, mixed-use communities centered around public transportation systems
- preparation of strategic investment plans to examine local assets and opportunities to build a vision for revitalization unique to that hamlet, downtown, or urban waterfront
- preparing a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) in an existing hamlet, downtown or urban waterfront plan, or one under preparation
- preparing a renewable energy ordinance, developing energy efficiency guidelines, or creating green building codes

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 accessible parks, public gathering spaces and entertainment amenities;
 - 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 studies 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, bike lanes and multi-use trails; crosswalks and other pedestrian safety enhancements, directional, informational signage; lighting, street trees, benches, planters, bicycle racks, trash receptacles, landscaping, and building facades;
 - o installing or ensuring access to secure bike or car parking near transit hubs or shuttle services;
- development of systems for defining and measuring progress and success in hamlet, downtown, and urban waterfront redevelopment
- adopting a renewable energy ordinance, developing energy efficiency guidelines, establishing green building codes

Planning or Constructing Land and Water-based Trails

Planning or constructing land and water-based trails as part of an LWRP effort can create physical linkages between community centers, waterways, parks, open spaces, and historic, scenic and cultural sites. Trails 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
- development of systems to track implementation and measure success
- providing walking and biking opportunities as alternatives to motor vehicle use to reduce emissions and promote physical activity
- preparing a Health Impact Assessment to identify and evaluate public health outcomes of the trail

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 Management 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 or stream, good water quality significantly contributes to their economy. Regions are similarly dependent on their natural assets. Guiding activities to protect and promote natural and economic assets on an intermunicipal, 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 management plans and advancing on-the-ground projects on a cooperative basis with significant public engagement have been shown to be effective ways 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 local waterfront revitalization program or a watershed plan, or both, may apply to integrate such programs and plans into a more holistic lakewide or watershed management 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, climate change mitigation and adaptation, and economic health
- conducting public participation to develop consensus on issues and actions needed to advance revitalization and water quality goals

- inventory, analyze and characterize the lakewide area or watershed including land cover, land and water uses, and infrastructure
- identifying and assessing key natural, cultural and economic assets
- identifying problems, impairments, and threats and assessing of their causes
- assessing land and water use controls (laws, programs and practices) to protect water quality and guide appropriate development
- quantifying the benefits of high water quality to local areas and the regional economy
- identifying issues and opportunities
- preparing strategies to protect water quality and promote sustainable economic development and community revitalization
- identifying local, state and other technical and financial resources needed for implementation of proposed projects and actions
- planning for the protection and promotion of natural assets on an intermunicipal, lakewide or watershed basis
- prioritizing projects and actions on an intermunicipal basis to revitalize a lakewide or watershed area
- developing systems to track implementation and measure and report on success
- preparing of a Health Impact Assessment to identify and evaluate public health outcomes of a strategy, approach, or project(s) contained in an existing Lakewide or Watershed Management Plan or one under preparation

Implementation

Applicants with an approved or substantially completed LWRP or lakewide or watershed management 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
- advancement of 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

Implementing a Community Resilience Strategy

Eligible 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 that advance LWRP policies. For a listing of NYRCR and NY Rising Countywide Resiliency Plans, please visit:

<http://stormrecovery.ny.gov/community-reconstruction-program>.

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; Public Health and Social Services; Housing; Infrastructure; and Natural and Cultural Resources.

Implementation

Applicants with an approved LWRP or relevant component substantially completed, may apply for implementation funding for projects, including but not limited to:

- implementation of priority actions to improve community resilience and reduce risks associated with coastal sea level rise, erosion, storm surge and flooding
- amendment or adoption of local land and water use controls to improve community resilience to storm events and sea level rise
- incorporate climate resilience vision, goals and strategies into local plans and projects
- development of educational outreach/training materials and programs to improve community resilience to severe weather and sea level rise impacts
- engineering, design, and/or construction of projects to make public facilities more resilient to potential severe weather and sea level rise impacts
- projects for the conservation, restoration, and enhancement of natural protective features and processes such as flood plains, wetlands, vegetated buffers, living shorelines, dunes and sediment transport
- green infrastructure projects that address water quality and stormwater management

Celebrating the Bicentennial of the Erie Canal - Improving Public Waterfront Access for Canal Communities

From 2017 - 2025, New York State will celebrate the 200th anniversary of the construction of the Erie Canal. While this is a significant event, New York's upstate canal communities continue to experience post-industrial disinvestment resulting in struggling and underserved villages, towns, and cities along this formerly booming corridor. The unique history and culture of canal communities presents an opportunity to attract additional tourism and recreation that can then be leveraged to revitalize local communities. New investments in infrastructure and public access that connect the public to the Canal will help make canal front communities more desirable places to live, work, and recreate - in turn creating increased visitation and the driving the establishment of support businesses. Opportunities exist to transform vacant or underused land into new parks, complete missing trail linkages, and increase boater services and amenities along the waterfront to encourage increased use of the canal system. Additionally, many public access sites - particularly along the Mohawk River, were severely impacted by flooding following Hurricane Irene and Tropical Storm Lee and restoration is needed to reopen them to the public.

The New York State Canal System includes four canals (Erie, Oswego, Cayuga-Seneca, and Champlain) and eight harbor centers (Whitehall, Waterford, Little Falls, Oswego, Syracuse, Seneca Falls, Rochester and the Tonawandas). The Canal and the Canalway Trail, which parallels much of the New York State Canal Systems 524 miles, connects 180 canal-front communities and parts of seven Regional Economic Development Councils (REDCs) (Western New York, Finger Lakes, Southern Tier, Central New York, Mohawk Valley, North Country, and the Capital Region).

Implementation

Eligible applicants with an approved LWRP may apply for grant funding to advance projects which create new waterfront public access sites or improve and/or expand existing sites along the New York State Canal System. Grants may be awarded for projects such as:

- improving public access to and along the Canal including, but not limited to, land and water based trails, boat launches, boat docks, boater facilities, and amenities;
- contributing to regional and local economies by filling gaps in the existing Canalway Trail;
- providing linkages between the Canal and downtowns, neighborhoods, parks, open spaces, and historic, scenic, and cultural sites;
- marketing materials and campaigns to promote canal activities to strengthen and extend the tourism season; and

VI. FUNDING RESTRICTIONS

Local Match

State assistance awarded and paid shall not exceed 75% of the total eligible cost for the project, except where the proposed project is located in an environmental justice community, in which case state assistance awarded and paid shall not exceed 85% of the total eligible cost for project. The total eligible cost of the project is the total of costs set forth in the grant application, less any federal assistance and other state assistance from the Environmental Protection Fund. In addition, the Environmental Protection Fund grants provided under this program may not be used as the local match for any federal grants without explicit written 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 are required to complete project tasks. Volunteer services must be listed in the contract work plan and budget. Documented volunteer services (non-professional or administrative) may be valued at up to \$15.00 per hour. Detailed accurate records must be kept using Department approved forms to account for volunteer services to be included as local match. Failure to do so will result in non-approval of accrued volunteer hours for documented match.

Donated Professional Services

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

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

Construction

Construction must be on public property or where a permanent public interest such as conservation easement has been established. Prior to the start of construction, the successful applicant will be required to install a sign satisfactory to the Department identifying the Department's funding of the project. The project sign will need to remain in place for the useful life of the improvements undertaken.

For construction only projects, the applicant must submit final design and construction documents certified by a licensed professional engineer, architect or landscape architect with the grant application.

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:

Personal Services – including direct salaries, wages, and fringe benefits for activities related to project work by municipal employees, including project management, capacity building, and grant administration

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

Note: Project management activities may include, but are not limited to, oversight and coordination of tasks needed to produce contracts deliverables, coordination of Project Advisory Committee activities, consultant procurement and oversight, public outreach and providing technical assistance.

Note: Capacity building may include: investment in existing staff, such as training, purchasing equipment or automating systems that will improve a community's ability to carry out projects and/or deliver programs funded under this RFA; or developing organizational capacity, such as through creating and recruiting new positions to oversee revitalization efforts.

Note: Grant administration activities may include, but are not limited to, 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.

Note: Land acquisition – land acquired (e.g., purchase or donation) may only be used as local match for construction projects. Land acquired must directly support the project and be acquired within three years prior to the contract start date or within the executed contract term. A map identifying the property, current appraisal report and copy of the recorded deed conveying title will be required to document property value and ownership.

Ineligible Costs

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

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

Salaries and other expenses of elected officials 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**

Ineligible 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 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 will fund the highest scoring applications until the allocated funds are exhausted. Approximately \$15.2 million is anticipated for awards for this procurement, with up to \$2 million for updates to existing LWRPs to mitigate future physical climate risks. Approximately \$10 million will be awarded for projects which are in, or primarily serve, areas where demographic and other relevant data demonstrate that the areas are:

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

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 of funding does not occur. In the event that an applicant receives full funding from another agency, the Department reserves the right to award full or partial funding to the next highest scoring unfunded application.

The opportunity to be debriefed will be provided, upon request, to unsuccessful applicants. Requests must be made in writing within 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 villages, towns, 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 (maximum of 80 points)

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

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

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 LWRP or other regional or local vision for capitalizing on community assets
- a Regional Economic Development Strategy including Downtown Revitalization Initiatives, Opportunity Agenda strategies, or Veterans Initiatives
- a New York Rising Community Reconstruction Plan or New York Rising Countywide Resiliency Plan

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 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 EPF LWRP contracts, required contract reports were submitted to the Department in a timely manner, and work was completed within a reasonable amount of time

Strategies (*maximum of 24 points*)

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
- Advances the strategies and priorities of a REDC, related to Downtown Revitalization Initiatives, Opportunity Agenda strategies, and Veterans Initiatives
- Advances regional strategies which address carbon reduction/abatement, energy efficiency or renewable energy

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

Public Value (*maximum of 4 points*)

- 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

- Promotes positive public health outcomes and/or avoids or mitigates negative public health outcomes
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
- Promotes positive public health outcomes and/or avoids or mitigates negative public health outcomes

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
- Incorporates and advances carbon reduction/abatement, energy efficiency or renewable energy
- Improves community resiliency to a changing climate, including vulnerable transportation, energy and water treatment infrastructure

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
- Supports renewable energy and clean transportation

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)**

- Clearly defines what is to be done, where and how it will be done, who will do it, and when it will be completed
- Is an integral part of a set of actions that comprehensively addresses an issue or opportunity

- Demonstrates sufficient experience and ability of key project personnel to successfully carry out the project
- Project deliverables are clearly defined and consistent with program objectives

Time Frame (*maximum of 4 points*)

- Demonstrates how the project will be completed within a maximum of five years or less
- Presents a clear and realistic schedule and time line that includes major tasks, milestones and completion dates
- Demonstrates that the project is ready to move forward quickly

Project Readiness (*maximum of 4 points*)

- Demonstrates that an effective organizational structure exists to advance and complete the project
- Demonstrates preliminary work needed to advance the proposed project phase has been completed (for example, if a construction project, designs have been prepared, permits and/or other approvals obtained, or at least submitted, to facilitate construction)

Leveraging (*maximum of 8 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

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 4 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*)

- 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 describes how the grant recipient will monitor expenditures during the life of the project to ensure that the project stays on schedule and within budget. (*maximum of 5 points*)

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

Regional Economic Development Council Endorsement (maximum of 20 points)

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

IX. CONTRACT REQUIREMENTS

New York State Grants Gateway

Grant applicants are encouraged to register through the New York State Grants Gateway. To register, log on to <http://grantsreform.ny.gov>.

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. 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 of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted (i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable, (ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable, (iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable, (iv) receipt and deposit of advances and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

MWBE Utilization

Applicants are required to create a plan for compliance with the Certified Minority-And Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women requirements as part of this application.

The plan will include a **detailed** statement, with the project description, on how you intend to meet the MWBE goals with your project. The following should be included in the statement:

1. Your project's MWBE goal amount, determined by using the MWBE GOALS CALCULATION Template.
2. The names of general circulation, trade association, and MWBE-oriented publications in which you plan to solicit certified MWBEs for the purposes of complying with the participation goals related to your project.
3. A list identifying the date(s) that all solicitations for certified MWBE participation plan to be published in any of the above publications
4. A list of all certified MWBEs appearing in the NYS Directory of Certified Firms that will be solicited for purposes of complying with your certified MWBE participation goal (The Directory can be viewed at: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?XID=7637&TN=ny>).
5. Descriptions of the notices, dates of contact, letters, and any other correspondence that will be made to all certified MWBEs.
6. A description of any contract documents, plans, or specifications to be made available to certified M/WBEs for bid solicitation purposes and the proposed date and manner in which these documents will be made available.

The plan for compliance shall be uploaded as part of the application. Additional information may be found in Appendix 1.

If your project is selected for an award, you will be required to comply with all the contractual requirements, including demonstrating that a good faith effort is made to meet the goals for certified MWBE firms participation as stated in your contract and in accordance with Article 15-A of the Executive Law.

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 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.

Contract Period

Subject to the continued availability of funds in the budget, the contract period shall not exceed five years from the start of the project. No extensions are anticipated. The earliest start date of contracts is April 1, 2017. Upon request by the grant recipient, with a showing of good cause, the contract start date may be set to a date in the future not to exceed 12 months beyond the contract execution date. Special consideration for extensions due to extreme extenuating circumstances will only be granted on a case-by-case basis.

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.

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

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; and
- 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

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 Department of State 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 of State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, Department of State hereby establishes an overall goal of 30% for MWBE participation. The specific goal percentages for the New York State-certified Minority-owned Business Enterprise (“MBE”) participation and the New York State-certified Women-owned Business Enterprise (“WBE”) participation shall be established post award and set forth in the Department of State contract 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 Department of State may withhold payment pursuant to any Contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com/frontend/vendorsearchpublic.asp>. For guidance on how Department of State 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 of State 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 Department of State. 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.

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

- A. 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 Department of State for review and approval.

The Department of State 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.

- B. 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 of State, 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 Department of State to be inadequate, Department of State 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.
- C. If you are unable to comply with the MWBE goals, you must request a waiver of these requirements by submitting to the Department of State the REQUEST FOR WAIVER FORM E, found on the DOS 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. A copy of the completed MWBE GOALS CALCULATION Template, found on the DOS funding page.
 3. 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.
 4. A list identifying the date(s) that all solicitations for certified MWBE participation were published in any of the above publications.
 5. 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.
 6. Documentation of your search in the NYS Directory of Certified Firms (e.g.: Printouts, screenshots).
 7. 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.
 8. Copies of responses to your solicitations received by you from certified MWBEs.

9. 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.
10. Documentation of any negotiations between you and the MWBEs undertaken for purposes of complying with the certified MWBE participation goals.
11. Any other information you deem relevant which may help us in evaluating your request for a waiver.
12. The name, title, address, telephone number, and email address of your representative authorized to discuss and negotiate this waiver request.
13. 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 see details under “**Additional Notices and Explanations Regarding the MWBE Program and this Request for Applications.**” Department of State 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 of State 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 Department of State, 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 Department of State, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of the New York State Master Grant Contract, Section IV (J) - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Additionally, successful applicants will be required to submit the following documents and information within ten (10) business days after the applicant receives notice from Department of State 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 Department of State with its proposal.
- B. Submit a Workforce Utilization Report (**Form C**) and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by Department of State on a quarterly basis during the term of the Contract, to the Division of Affirmative Action Programs at:

Maria C. Herman
Director, Division of Affirmative Action Programs
Phone: 518-473-3401
Email: Maria.Herman@dos.ny.gov

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

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.

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 below, 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.

II. SERVICE-DISABLED VETERAN-OWNED BUSINESSES PARTICIPATION

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

To comply with the SDVOB Program goals of 6%, the Department of State strongly encourages grantees to make every effort, to the maximum extent possible, to engage certified SDVOBs in the purchasing of commodities, services and technology in the performance of their contracts with the Department. If SDVOB utilization is obtained, a quarterly SDVOB utilization report should be submitted to the Department with information of the utilization percentage achieved during that quarter. Contractor Reporting Forms are found at: <https://ogs.ny.gov/Veterans/>. The Division of Service-Disabled Veterans' Business Development (DSDVBD) is housed within the New York State Office of General Services (OGS), and maintains a directory of the NYS Certified SDVOBs. For assistance with engaging SDVOB vendors in your contracts, please contact the Division of Service-Disabled Veterans' Business Development at the following email address: VeteransDevelopment@ogs.ny.gov, or the DOS Division of Affirmative Action Programs – SDVOB Program at Maria.Herman@dos.ny.gov or Api.Ohouo@dos.ny.gov. The directory of certified SDVOB vendors can be found at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf