
NEW YORK STATE
REGISTER

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State agencies must specify in each notice which proposes a rule the last date on which they will accept public comment. Agencies must always accept public comment: for a minimum of 60 days following publication in the *Register* of a Notice of Proposed Rule Making, or a Notice of Emergency Adoption and Proposed Rule Making; and for 45 days after publication of a Notice of Revised Rule Making, or a Notice of Emergency Adoption and Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 60 days after publication of the notice, and comments must be accepted for at least 5 days after the last required hearing. When the public comment period ends on a Saturday, Sunday or legal holiday, agencies must accept comment through the close of business on the next succeeding workday.

For notices published in this issue:

- the 60-day period expires on January 19, 2020
- the 45-day period expires on January 4, 2020
- the 30-day period expires on December 20, 2019

**ANDREW M. CUOMO
GOVERNOR**

**ROSSANA ROSADO
SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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NEW YORK STATE REGISTER

Be a part of the rule making process!

The public is encouraged to comment on any of the proposed rules appearing in this issue. Comments must be made in writing and must be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address are printed in the notice of rule making. No special form is required; a handwritten letter will do. Individuals who access the online *Register* (www.dos.ny.gov) may send public comment via electronic mail to those recipients who provide an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings.

To be considered, comments should reach the agency before expiration of the public comment period. The law provides for a minimum 60-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making, and a 45-day public comment period for every Notice of Revised Rule Making. If a public hearing is required by statute, public comments are accepted for at least five days after the last such hearing. Agencies are also required to specify in each notice the last date on which they will accept public comment.

When a time frame calculation ends on a Saturday or Sunday, the agency accepts public comment through the following Monday; when calculation ends on a holiday, public comment will be accepted through the following workday. Agencies cannot take action to adopt until the day after expiration of the public comment period.

The Administrative Regulations Review Commission (ARRC) reviews newly proposed regulations to examine issues of compliance with legislative intent, impact on the economy, and impact on affected parties. In addition to sending comments or recommendations to the agency, please do not hesitate to transmit your views to ARRC:

Administrative Regulations Review Commission
State Capitol
Albany, NY 12247
Telephone: (518) 455-5091 or 455-2731

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KEY: (P) Proposal; (RP) Revised Proposal; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (W) Withdrawal

Individuals may send public comment via electronic mail to those recipients who provided an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings. Choose pertinent issue of the *Register* and follow the procedures on the website (www.dos.ny.gov)

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AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Department of Agriculture and Markets

NOTICE OF ADOPTION

Fuels for Use in Automobiles and Motor-Driven Devices and Equipment

I.D. No. AAM-30-19-00004-A

Filing No. 1000

Filing Date: 2019-11-05

Effective Date: 2019-11-20

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 224 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 16(1), 18(6), 179(3)(b), 192-a(1), 192-b(12) and 192-c(13)

Subject: Fuels for use in automobiles and motor-driven devices and equipment.

Purpose: To conform regulations with Federal requirements; to provide standards for, and relieve confusion in, the sale of new fuels.

Substance of final rule: The proposed rule will amend 1 NYCRR Part 224, as follows:

1. Section 224.1 will be amended to add definitions of terms used in amendments to the substantive provisions of Part 224, promulgated pursuant to the proposed rule.

2. Section 224.3 will be amended to require automotive fuel, diesel fuel, and kerosene to comply with current standards developed by the American Society for Testing and Materials ("ASTM"). That section will also be amended to allow for the sale and distribution of gasoline-ethanol

blends that have not more than 15%, and not less than 51%, by volume, of ethanol. Furthermore, that section will be amended to set forth standards for certain fuels; i.e., denatured fuel ethanol, ethanol flex fuels, butanol, butanol blends, biodiesel, and biodiesel blends, for which standards are not presently set forth.

3. Sections 224.4 and 224.7 will be amended to lower the amount of water that may be in the bottom of a retail fuel storage tank from two inches to one inch.

4. Section 224.5 will be repealed and a new section 224.5 added that will set forth disclosure requirements that refiners and distributors of automotive fuels and other petroleum products must furnish to purchasers of bulk shipments of those commodities.

5. Section 224.6 will be amended to, in effect, delete the authority of the Commissioner of Agriculture and Markets to temporarily allow a retailer of petroleum products to sell such products from dispensers that do not set forth the total selling price.

6. Section 224.8 will be amended to require a seller of gasoline that contains more than one percent butanol, by volume, to make certain disclosures.

7. Section 224.9 will be amended to require refiners, producers, distributors, and retailers of gasoline and diesel motor fuel to comply with otherwise-applicable federal regulations relating to octane.

8. Section 224.14 will be amended to conform to presently existing regulations promulgated by the Department of Environmental Conservation, in 6 NYCRR section 613-22, that require retailers to permanently mark "fill ports", in a specified manner, designed to identify the petroleum products therein.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 224.3(d), (e)(1) and 224.9(c)(1).

Text of rule and any required statements and analyses may be obtained from: Mike Sikula, Director, Bureau of Weights & Measures, NYS Dept. of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-3146, email: Mike.Sikula@agriculture.ny.gov

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Changes to not affect the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Department of Agriculture and Market ("Department") received a total of forty-seven letters and emails that set forth comments concerning the provisions of the express terms of the proposed amendments to Part 224 of 1 NYCRR ("the proposed rule"). A number of commentators supported adoption of the express terms; others, however, objected to various provisions thereof, or made suggestions for additions thereto.

Several commentators, including Growth Energy, the American Coalition for Ethanol, the Renewable Fuels Association, and the Renewable Products Marketing Group, opposed the prohibition upon "mid-level" gasoline-ethanol blends (that is, blends greater than 15% and less than 51% ethanol, by volume) in the proposed amendments to 1 NYCRR § 224.3(a)(2)(i). The Department has decided not to amend this proposed amendment as requested by these commentators. This proposed amendment will expand the number of gasoline-ethanol blends that will be allowed; i.e. it will allow blends up to 15% ethanol (E-15) whereas, presently, blends may not exceed 10% ethanol (E-10). The Department feels that allowing an unlimited number of blends may cause an undue disruption in the marketplace and wants to ensure that consumers have time to become accustomed to E-15 and that the industry has time to research proper infrastructure for E-15. The Department further feels that a gradual

introduction of higher ethanol blends will allow consumers and the industry time to adjust to new fuel choices. The Department intends, however, to closely monitor the marketplace and will consider, at some future point, allowing additional blends if the marketplace adapts well to the introduction of E-15.

Two commentators, including the American Motorcyclist Association and the American Petroleum Institute, opposed allowing E-15 because they believe that consumers could become confused when confronted with a multiplicity of fuels and could accidentally pump E-15 into the wrong vehicles, thereby causing engine damage and possibly voiding manufacturer's warranties.

The Department declines to revise this proposed amendment in response to these commentators' objections. Several other states have permitted E-15 to be sold and there have been no reported cases of "mis-fueling". Furthermore, the proposed rule will require service stations to post a label, compliant with Environmental Protection Agency (EPA) misfuelling mitigation plan requirements, adjacent to the pumps that dispense E-15, that will alert consumers as to which vehicles E-15 can be used in. This requirement will better ensure that "mis-fueling" does not occur.

The Department also declines to revise this proposed amendment because it believes that consumers should have the choice whether or not to use E-15; indeed, many consumers have intentionally purchased flex-fuel vehicles that were engineered for E-15 because they believe it has environmental and/or economic benefits. While the Department is aware that allowing a multitude of ethanol blends all at once could cause an undue disruption in the marketplace, it believes that this proposed amendment strikes an appropriate balance for both consumers and the industry.

A commentator, the American Petroleum Institute, also opposed allowing E-15 because it believes that some service stations have dispensing equipment that is not compatible with E-15, and because it believes certain vehicles, approved by the EPA to use E-15, would nevertheless experience engine damage if they were to use such fuel and may void manufacture warranties.

The Department has decided not to amend this proposed amendment for the reasons set forth above. Simply put, this proposed amendment does not require service stations to dispense E-15; any service station that intends to dispense E-15 will be responsible for addressing any compatibility issues, similar to how the one hundred plus service stations that currently dispense E-85 had to address compatibility issues. Additionally, the Department believes that because the demand for E-15 will be relatively modest, any such service station that does not have equipment compatible with E-15 will not, most probably, be at a significant competitive disadvantage if it does not offer such fuel for sale.

Furthermore, consumers will not be required to purchase E-15 and it is highly unlikely that any consumer who chooses to use E-15 in a vehicle approved by EPA will cause damage to his/hers vehicle's engine due to such use; EPA utilizes procedures that are generally – accepted in the relevant scientific community as reliable to make determinations of this type and there is no reason to believe that such determinations are inaccurate.

Several commentators, including the American Motorcyclist Association, the American Petroleum Institute, and the New York Snowmobile Association oppose allowing E-15 because they believe that consumers could become confused when confronted with a multiplicity of fuels and could accidentally pump E-15 into their boat, snowmobile, lawn mower, etc., thereby damaging their engines and possibly voiding manufacturer warranties; the Department declines to revise this proposed amendment for the reasons set forth above.

A commentator, the New York Association of Convenience Stores, expressed a concern that allowing E-15 might lead to limited availability of fuels that are presently offered for sale. The Department declines to revise this proposed since it believes that the industry will continue to supply fuels to meet consumer demand and consumer demand, will likely, continue to be varied. Furthermore, to the extent that consumers continue to demand other fuels, there is no reason to believe that service stations that chose to offer E-15 for sale will not continue to offer such other fuels for sale as well.

A commentator, the New York Snowmobile Association, suggested that the proposed rule should require service stations to "color-code" the nozzles of pumps that dispense E-15 and also suggested that such stations offer pamphlets setting forth the advantage and disadvantages of such fuel. The Department declines to amend the proposed rule as suggested by this commentator; the Department believes that certain provisions of the proposed rule, as well as the currently extant regulations, require service stations to provide sufficient information that will allow consumers to determine which pump(s), if any, dispense E-15. Furthermore, the Department believes that consumers are readily able to ascertain, from easily-accessible and reliable sources, the advantages and disadvantages of using E-15; there is, therefore, no compelling reason to require service stations to incur the cost of providing such information. Additionally, this proposal allows multiple fuels, including E-10 and E-15, to be dispensed from the

same nozzle, so requiring nozzles to be color coded would put an undue burden on the industry.

The New York State Association of Convenience stores inquired as to the reason why the word "retail" was added to a subdivision (f) of 1 NYCRR § 224.4, so that that section would require that there could be no more than a certain amount of water in "retail storage tanks" rather than, as subdivision (f) presently provides, in "storage tanks" in general. The Department decided to add the word "retail", in the context, to clarify that the requirement in this section has historically been construed by the Department as applying only to "retail storage tanks". This change was made following feedback from one of the three workshops held earlier this year where the Department met with concerned people, explained the intent of revising the existing regulation and heard their concerns.

Two commentators, including the American Petroleum Institute and the Renewable Fuels Association, suggested that the proposed rule shall be amended so that certain current versions of documents published by ASTM International should be substituted for older versions thereof that are presently incorporated by reference in 1 NYCRR Part 224; the Department has amended the proposed rule to incorporate two more current versions (i.e., ASTM D 4806-19a and D 5798-19b) and has declined to amend the proposed rule to incorporate two other more current versions (i.e., D 4814-19 and D 975-19b) since these versions do not set forth provisions that are substantively different from the versions currently so incorporated.

A commentator, Growth Energy, requested assurance that the term "unleaded 88", commonly used in marketing to describe E-15 offered at retail and which has an octane level of 88 or greater, would be permitted in the proposed addition of a new 1 NYCRR § 224.9(c)(1). The Department agrees that the requirement set forth in proposed new 1 NYCRR § 224.9(c)(2) is too restrictive and has amended that proposed provision so that it does not prohibit the use of the term "unleaded 88", as well as other equally descriptive terms, when they are used on dispensers and street signs to refer to that fuel.

A commentator, the New York Association of Convenience Stores, opposed the proposed amendments to 1 NYCRR § 224.4(f) and § 224.7(c) that would lower the maximum water level that may be in a retail storage tank from 2" to 1". The Department has decided not to revise this proposed amendment as requested by this commentator. This proposed amendment will functionally require service stations to implement corrective action when retail storage tanks indicate a water level above one inch; early and timely action will better ensure that the fuel in such tanks is not compromised by coming into contact with and absorbing added water. Finding water levels in excess of one inch in storage tanks at service stations is rare and is generally considered a sign of poor housekeeping or some type of abnormal condition that should be addressed sooner rather than later. Furthermore, the Department is aware of twenty-four other states that have a standard for the maximum amount of water that may be in a retail fuel storage tank and none of them allow more than 1" of water in such tanks.

A commentator, the American Collation of Ethanol, opposed the amendment to proposed 1 NYCRR § 224.8(c) and § 224.9(b)(2) that would require retailers of E-15 and gasoline-butanol blends to post signs that contain certain warnings; this commentator believes that these fuels are less harmful than other fuels and that no such warnings should therefore be required. The Department declines to revise these proposed amendments as requested by this commentator; these proposed amendments will merely conform the Department's regulations to currently existing Federal requirements, thereby facilitating compliance for businesses that dispense fuel in interstate commerce.

A commentator, Buckeye Partners, suggest that 1 NYCRR § 224.3(a) should be amended to authorize the Department to issue waivers that would allow gasoline to have a higher vapor pressure, during non-summer months, than is presently allowed. The Department declines to amend 1 NYCRR § 224.3(a) as requested by this commentator. The Department adopts the vapor pressure requirements in the ASTM standard D4814 and does not believe sufficient reasons have been provided to support allowing gasoline to have a higher vapor pressure allowance during non-summer months. The Department further believes that any incidental beneficial impact upon shippers and distributors of automotive gasoline such as by allowing them, during non-summer months, to obtain and blend gasoline with certain less-expensive components warrants a waiver. Additionally, the Department does not believe such a waiver would provide any noticeable benefit to consumers.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Golden Nematode (*Globodera Rostochiensis*) Quarantine

I.D. No. AAM-47-19-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend section 127.2(c) and (g) of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 18, 164 and 167

Subject: Golden Nematode (*Globodera rostochiensis*) Quarantine.

Purpose: To lift the Golden Nematode quarantine in portions of the Towns of East Hampton and Riverhead in Suffolk County.

Substance of proposed rule (Full text is posted at the following State website: Full text is available at: <https://www.agriculture.ny.gov/PI/Express%20Terms%201%20NYCRR%20127.pdf>; or by visiting www.agriculture.ny.gov/PI/gn.html, scrolling down to the link entitled "1 NYCRR Part 127 - Golden Nematode Revised Express Terms."): The new section 127.2(c) of 1 NYCRR makes technical corrections to the description of the quarantined area in Nassau County.

The new section 127(g) of 1 NYCRR lifts the quarantine in portions of the Towns of East Hampton and Riverhead in Suffolk County, and amends the description of the quarantined areas. Technical amendments are also being made to clarify the cardinal direction signals for the Global Positioning System latitude/longitude points.

Text of proposed rule and any required statements and analyses may be obtained from: Christopher Logue, Director, Division of Plant Industry, Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-2087, email: christopher.logue@agriculture.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Consensus Rule Making Determination

The Department has considered the proposed rule making and has determined that the rule is a consensus rule within the meaning of the State Administrative Procedure Act section 102(11) in that no person is likely to object to the rule as written since it is noncontroversial.

The proposed rule amends subsections 127.2(c) and (g) of 1 NYCRR to lift the quarantine in portions of the Towns of East Hampton and Riverhead in Suffolk County. The lifting of the quarantine in these areas would affect 9 potato and tomato growers, all of whom are small businesses. In these areas, a sequence of surveys has proven negative for Golden Nematode.

The rule also makes technical additions to the identification of the latitude/longitude coordinates by adding cardinal direction signals to the text.

The lifting of the quarantine in the towns of East Hampton and Riverhead will ease regulatory burdens on nine farmers located within the previously quarantined area without compromising plant health, thereby promoting the general welfare.

Accordingly, since the rule would relax a regulatory burden, it is unlikely that anyone will object to this rule as written since it is noncontroversial.

Job Impact Statement

This rule amends the golden nematode (GN) quarantine in subsections 127.2(c) and 127.2(g) of 1 NYCRR by lifting the quarantine in portions of the Towns of East Hampton and Riverhead in Suffolk County.

The proposed amendments will relax regulatory burdens on regulatory parties. It is estimated that there are 9 potato and tomato producers in these areas. By lifting the quarantine in areas where a sequence of surveys has proven negative for GN, the rule will help to prevent adverse economic consequences to those areas and in so doing, protect the jobs and employment opportunities associated with the production of potatoes, tomatoes and eggplant in New York State.

Department of Audit and Control

NOTICE OF ADOPTION

Limitations on Public Safety Overtime

I.D. No. AAC-29-19-00021-A

Filing No. 995

Filing Date: 2019-11-01

Effective Date: 2019-11-20

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 315.5(h) of Title 2 NYCRR.

Statutory authority: Retirement and Social Security Law, sections 11, 34, 41, 311 and 334

Subject: Limitations on Public Safety overtime.

Purpose: To clarify that public safety overtime is subject to the limitations contained in the Retirement and Social Security Law.

Substance of final rule: in the July 17, 2019 issue of the Register, I.D. No. AAC-29-19-00021-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jamie Elacqua, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 473-4146, email: jelacqua@osc.ny.gov

Assessment of Public Comment

The agency received no public comment.

Department of Economic Development

NOTICE OF ADOPTION

STARTUP-NY Program

I.D. No. EDV-30-19-00003-A

Filing No. 991

Filing Date: 2019-10-30

Effective Date: 2019-11-20

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of Part 220 to Title 5 NYCRR.

Statutory authority: Economic Development Law, art. 21, sections 435-436; L. 2013, ch. 68

Subject: STARTUP-NY Program.

Purpose: Establish procedures for the implementation and execution of START-UP NY program.

Text or summary was published in the July 24, 2019 issue of the Register, I.D. No. EDV-30-19-00003-EP.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Thomas Regan, Dept of Economic Development, 625 Broadway, Albany NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

1) Comment – The program regulations should specifically mention that businesses providing training services are allowed to participate in the Program.

Response – The program regulations do not specifically delineate which businesses are eligible for the Program. Instead, the regulations under section 220.6(b)(1) list the types of businesses prohibited from participation. Businesses which provide training are not excluded under 220.6(b)(1), and, assuming they meet the other requirements of the program, they are eligible for the program.

2) Comment – The date after which ESD can no longer accept applications in the program should be changed from on or before December 31, 2020 to December 31, 2025.

Response – ESD appreciates this comment and the support for the program. Economic Development Law section 436 currently requires that applications be submitted on or before December 31, 2020. It is beyond the purview of these regulations to make that time extension. Such extension would need to be accomplished via the legislative process.

Education Department

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Permit Physicians Licensed in Another State or Territory to Provide Medical Services to Athletes and Team Personnel in New York

I.D. No. EDU-47-19-00006-EP

Filing No. 997

Filing Date: 2019-11-05

Effective Date: 2019-11-05

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Proposed Action: Addition of section 60.13 to Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 6504, 6507, 6510, 6521, 6522, 6526; L. 2018, ch. 519; L. 2019, ch. 199

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: The proposed addition of section 60.13 to the Regulations of the Commissioner of Education is necessary to implement Chapter 519 of the Laws of 2018 (Chapter 519) and Chapter 199 of the Laws of 2019 (Chapter 199), which amended the Education Law, effective June 26, 2019, to permit any physician who is licensed and in good standing in another state or territory, and who has a written agreement to provide medical services to athletes and team personnel of a United States sports team recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team, may provide medical services to such athletes and team personnel for no more than five days before through three days after each discrete sanctioned team sporting event in New York State; and at a discrete sanctioned team sporting event in this State, as defined in the Regulations of the Commissioner of Education, provided such services are provided only to such athletes and team personnel at the discrete sanctioned team sporting event.

The proposed addition of section 60.13 to the Regulations of the Commissioner of Education implements Chapters 519 and 199 by, inter alia, defining a discrete sanctioned team sporting event as a separate and distinct team sporting event that occurs during a defined period of time in this State and whose participants include a United States sports team recognized by the United States Olympic committee or out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team. The proposed amendment also subjects the team physician to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the Board of Regents and the State Board for Professional Medical Conduct established pursuant to section two hundred thirty of the public health law as if he or she is a licensee and as if the exemption established pursuant to subdivision (10) of section 6526 of the Education Law is a license. The proposed amendment further requires team physicians to comply with the applicable provisions of Title VIII of the Education Law, the Public Health Law, the Rules of the Board of Regents, the State Board for Professional Medical Conduct, and the Regulations of the Commissioner of Education and the Commissioner of Health, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for permanent adoption, after expiration of the required 60-day comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the February 10-11, 2020 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the February meeting would be February 26, 2020, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the November 2019 meeting for the preservation of the public health and general welfare in order to immediately conform the Regulations of the Commissioner of Education to the requirements of Chapters 519 and 199, which both became effective June 26, 2019, to permit physicians who are licensed in another state or territory to provide medical services to athletes and team personnel in New York State, as long as certain requirements are met.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the February 2020 Regents meeting, which is the first scheduled meeting after the 60-day public comment period prescribed in SAPA for State agency rule makings. However, since the emergency regulation will expire before the February 2020 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the January 2020 Regents meeting.

Subject: Permit physicians licensed in another state or territory to provide medical services to athletes and team personnel in New York.

Purpose: To align the Regulations of the Commissioner with chapter 519 of the Laws of 2018 and chapter 199 of the Laws of 2019.

Text of emergency/proposed rule: Section 60.13 of the Regulations of the Commissioner of Education is added, as follows:

§ 60.13 Exemption for Physicians Who are Licensed in Another State or Territory to Provide Medical Services to Athletes and Team Personnel in New York State

(a) Pursuant to Education Law § 6526(10), any physician who is licensed and in good standing in another state or territory, and who has a written agreement to provide medical services to athletes and team personnel of a United States sports team recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team, may provide medical services to such athletes and team personnel:

(1) for no more than five days before through three days after each discrete sanctioned team sporting event in this State; and

(2) at a discrete sanctioned team sporting event in this State, as defined in subdivision (b) of this section, provided such services are provided only to such athletes and team personnel at the discrete sanctioned team sporting event.

(b) Discrete sanctioned team sporting event means a recognized team sporting event that occurs during a defined time period in this State and whose participants include a United States sports team that is recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team.

(c) Any person practicing as a physician in this State pursuant to this section shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the Board of Regents and the State Board for Professional Medical Conduct established pursuant to Public Health Law § 130 as if he or she is a licensee and as if the exemption established pursuant to Education Law § 6526 is a license. Such individual shall comply with the applicable provisions of Title VIII of the Education Law, the Public Health Law, the Rules of the Board of Regents, the State Board for Professional Medical Conduct established pursuant to Public Health Law § 130, and the Regulations of the Commissioner and the Commissioner of Health, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire February 2, 2020.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Douglas E. Lentivech, Education Department, Office of the Professions, 89 Washington Avenue, 2nd Floor EB, West Wing, Albany, NY 12234, (518) 486-1727, email: REGCOMMENTS@nysed.gov

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Section 6506 of the Education Law authorizes the Board of Regents to supervise the admission to and the practice of the professions.

Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to and the practice of the professions.

Section 6510 of the Education Law establishes the proceedings in cases of professional misconduct.

Section 6521 of the Education Law defines the practice of medicine.

Section 6522 of the Education Law establishes that only a person

licensed or otherwise authorized under Article 131 of the Education Law shall practice medicine or use the title "physician."

Section 6526 of the Education Law, as amended by Chapter 519 of the Laws of 2018 and Chapter 199 of the Laws of 2019, establishes the exemption from licensure requirements for the profession of medicine, including, but, not limited to, permitting physicians who are licensed in another state or territory to provide medical services to athletes and team personnel in this State, if certain requirements are met.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to conform the Commissioner's regulations to the amendments made to Education Law section 6526 by Chapters 519 and 199. The proposed amendment implements Chapter 519, which, inter alia, amended the Education Law to permit any physician, who is licensed and in good standing in another state or territory and has a written agreement to provide medical services to athletes and team personnel, to provide medical services to athletes and team personnel when they are participating in a discrete sanctioned team sporting event in this State. The proposed amendment also implements Chapter 199 of the Laws of 2019, which amended the Education Law to include the New York State Department of Health's State Professional Board for Professional Medical Conduct, in addition to the Board of Regents, as a disciplinary and regulatory authority over these physicians.

3. NEEDS AND BENEFITS:

Currently, New York State is one of only four other states, Idaho, North Dakota, South Dakota and Wisconsin, that does not recognize visiting team physicians. As part of their work, team physicians cross state lines on a regular basis. However, most of them are only licensed in their respective home states, not in all the states where their teams may visit to participate in sporting events. Team physicians provide medical services to athletes and team personnel at the secondary education, post-secondary education and professional levels and attend games and team practices wherever their respective teams travel to.

On October 5, 2018, President Trump signed the Sports Medicine Clarity Act of 2018 (Sports Medicine Clarity Act), which, inter alia, extends liability insurance coverage to other states when state-licensed medical practitioners provide services to traveling athletes, athletic teams, or team personnel. Prior to this Act, state-licensed sports medicine professionals lacked insurance coverage when they crossed state lines with their teams, which exposed them to liability because insurance companies would not accept liability and pay for damages for the medical services they provided to team athletes and personnel outside of the state(s) they are licensed in. Additionally, prior to the Sports Medicine Clarity Act, physicians put their medical licenses at risk each time they crossed state lines with their teams.

However, the Sports Medicine Clarity Act did not address physician licensure requirements for out-of-state team physicians when they provide medical services to athletes and team personnel in their respective states.

On December 28, 2019, Governor Cuomo signed Chapter 519 of the Laws of 2018 (Chapter 519), which, effective June 26, 2019, inter alia, amended the Education Law, by adding a new subdivision (10) to section 6526 of the Education Law, to permit any physician who is licensed and in good standing in another state or territory, and who has a written agreement to provide medical services to athletes and team personnel of a United States sports team recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team, may provide medical services to such athletes and team personnel for no more than five days before through three days after each discrete sanctioned team sporting event in New York State; and at a discrete sanctioned team sporting event in this State, as defined in the Regulations of the Commissioner of Education, provided such services are provided only to such athletes and team personnel at the discrete sanctioned team sporting event.

Subsequently, on August 29, 2019, Governor Cuomo signed Chapter 199 of the Laws of 2019 (retroactively effective June 26, 2019), inter alia, amended subdivision (10) of section 6526 of the Education Law to include the New York State Department of Health's (DOH) State Professional Board for Professional Medical Conduct, in addition to the Board of Regents, as a disciplinary and regulatory authority over any physician licensed in another state or territory providing medical services to athletes and team personnel in this State.

The proposed addition of section 60.13 to the Regulations of the Commissioner of Education implements Chapters 519 and 199 by, inter alia, defining a discrete sanctioned team sporting event as a separate and distinct team sporting event that occurs during a defined period of time in this State and whose participants include a United States sports team recognized by the United States Olympic committee or out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team. The proposed amendment also subjects the team physician to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the Board of Regents and the State Board for

Professional Medical Conduct established pursuant to section two hundred thirty of the public health law as if he or she is a licensee and as if the exemption established pursuant to subdivision (10) of section 6526 of the Education Law is a license. The proposed amendment further requires team physicians to comply with the applicable provisions of Title VIII of the Education Law, the Public Health Law, the Rules of the Board of Regents, the State Board for Professional Medical Conduct, and the Regulations of the Commissioner of Education and the Commissioner of Health, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

4. COSTS:

(a) Costs to State government: There are no additional costs to State government.

(b) Costs to local government: There are no additional costs to local government.

(c) Cost to private regulated parties: The proposed amendment does impose any additional costs on the physicians who are subject to the regulation.

(d) Cost to the regulatory agency: There are no additional costs to the State Education Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any program, service, duty, or responsibility on local governments.

6. PAPERWORK:

There are no new forms, reporting requirements, or other recordkeeping associated with the proposed amendment.

7. DUPLICATION:

The proposed amendment does not duplicate any other existing State or federal requirements.

8. ALTERNATIVES:

The proposed addition of section 60.13 to the Regulations of the Commissioner of Education conforms the Commissioner's regulations to Chapter 519 of the Laws of 2018 and Chapter 199 of the Laws of 2019.

There are no significant alternatives to the proposed amendment and none were considered.

9. FEDERAL STANDARDS:

No Federal standards apply to the subject matter of this rule making. The Federal government does not regulate the exemptions from the physician licensure requirements in New York State. Since there are no applicable federal standards, the proposed amendment does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE:

If adopted as the November 2019 Regents meeting, the emergency rule will become effective November 5, 2019. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the February 2020 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

Regulatory Flexibility Analysis

The purpose of the proposed addition of section 60.13 to the Regulations of the Commissioner of Education is to conform the Commissioner's regulations to Chapter 519 of the Laws of 2018 (Chapter 519) and Chapter 199 of the Laws of 2019 (Chapter 199). The proposed amendment implements Chapter 519, which, inter alia, amended the Education Law to permit any physician, who is licensed and in good standing in another state or territory and has a written agreement to provide medical services to athletes and team personnel, to provide medical services to athletes and team personnel when they are participating in a discrete sanctioned team sporting event in this State. The proposed amendment also implements Chapter 199, which amended the Education Law to include the New York State Department of Health's State Professional Board for Professional Medical Conduct, in addition to the Board of Regents, as a disciplinary and regulatory authority over these physicians.

The proposed amendment will not impose any reporting, recordkeeping, or other compliance requirements or costs, or have an adverse impact, on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

Rural Area Flexibility Analysis

The purpose of the proposed addition of section 60.13 to the Regulations of the Commissioner of Education is to conform the Commissioner's regulations to Chapter 519 of the Laws of 2018 (Chapter 519) and Chapter 199 of the Laws of 2019 (Chapter 199). The proposed amendment implements Chapter 519, which, inter alia, amended the Education Law to

permit any physician, who is licensed and in good standing in another state or territory and has a written agreement to provide medical services to athletes and team personnel, to provide medical services to athletes and team personnel when they are participating in a discrete sanctioned team sporting event in this State. The proposed amendment also implements Chapter 199, which amended the Education Law to include the New York State Department of Health's State Professional Board for Professional Medical Conduct, in addition to the Board of Regents, as a disciplinary and regulatory authority over these physicians.

The proposed amendment to the preprofessional education requirements is applicable to any physician, who is licensed and in good standing in another state or territory and has a written agreement to provide medical services to athletes and team personnel, and seeking to provide medical services to athletes and team personnel when they are participating in a discrete sanctioned team sporting event in this State and subjects such physicians to the disciplinary and regulatory of the New York State Department of Health's State Professional Board for Professional Medical Conduct and the Board of Regents. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

It is not anticipated that the proposed amendment will impact jobs or employment opportunities. The proposed addition of section 60.13 to the Regulations of the Commissioner of Education conforms the Commissioner's regulations to Chapter 519 of the Laws of 2018 (Chapter 519) and Chapter 199 of the Laws of 2019 (Chapter 199). The proposed amendment implements Chapter 519, which, *inter alia*, amended the Education Law to permit any physician, who is licensed and in good standing in another state or territory and has a written agreement to provide medical services to athletes and team personnel, to provide medical services to athletes and team personnel when they are participating in a discrete sanctioned team sporting event in this State. The proposed amendment also implements Chapter 199, which amended the Education Law to include the New York State Department of Health's State Professional Board for Professional Medical Conduct, in addition to the Board of Regents, as a disciplinary and regulatory authority over these physicians.

The proposed amendment will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed amendment that it will have no impact on jobs or employment opportunities attributable to its adoption or only a positive impact, no affirmative steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Profession of Registered Dental Assisting

I.D. No. EDU-47-19-00007-EP

Filing No. 998

Filing Date: 2019-11-05

Effective Date: 2019-11-05

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Proposed Action: Amendment of sections 29.2, 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 6504, 6507, 6509, 6608-a; L. 2019, ch. 390

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: The proposed amendment to section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education is necessary to implement Chapter 390 (Chapter 390) of the Laws of 2019, which amended the Education Law, effective October 23, 2019, by, *inter alia*, creating the new legally protected title of "registered dental assistant" and eliminating the prior protected title of "certified dental assistant." The prior title of certified dental assistant was causing confusion between individuals certified by the Department and individuals certified by the National Dental Assisting Board (DANB). This confusion led to some unintentional criminal violations for those individuals who illegally used the certified dental assistant

title in this State when they possessed only DANB certification. Additionally, both dentists and the public were confused by which certified dental assistants were licensed by New York State and which were only DANB-certified.

Chapter 390 eliminated these issues by changing the protected title of the profession to registered dental assistant and replacing all the references in Article 133 of the Education Law to the prior title of certified dental assistant with the title registered dental assistant.

The proposed amendment to section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education implements Chapter 390 by changing the references, in those sections, from "certified dental assistant" and "certified dental assisting" to "registered dental assistant" and "registered dental assisting."

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for permanent adoption, after expiration of the required 60-day comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the February 10-11, 2020 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the February meeting would be February 26, 2020, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the November 2019 meeting for the preservation of the public health and general welfare in order to immediately conform the Rules of the Board of Regents and the Regulations of the Commissioner of Education to the requirements of Chapter 390, which became effective October 23, 2019, by changing the references, in those sections, from "certified dental assistant" and "certified dental assisting" to "registered dental assistant" and "registered dental assisting."

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the February 2020 Regents meeting, which is the first scheduled meeting after the 60-day public comment period prescribed in SAPA for State agency rule makings. However, since the emergency regulation will expire before the February 2020 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the January 2020 Regents meeting.

Subject: Profession of Registered Dental Assisting.

Purpose: To conform the Regulations of the Commissioner with chapter 390 of the Laws of 2019.

Text of emergency/proposed rule: 1. Subdivision (a) of section 29.2 of the Rules of the Board of Regents is amended, as follows:

(a) Unprofessional conduct shall also include, in the professions of: acupuncture, athletic training, audiology, certified behavior analyst assistant, [certified] *registered* dental assisting, chiropractic, creative arts therapy, dental hygiene, dentistry, dietetics/nutrition, licensed behavior analyst, licensed pathologists' assistants, licensed perfusionist, licensed practical nursing, marriage and family therapy, massage therapy, medicine, mental health counseling, midwifery, occupational therapy, occupational therapy assistant, ophthalmic dispensing, optometry, pharmacy, physical therapist assistant, physical therapy, physician assistant, podiatry, psychoanalysis, psychology, registered professional nursing, respiratory therapy, respiratory therapy technician, social work, specialist assistant, speech-language pathology (except for cases involving those professions licensed, certified or registered pursuant to the provisions of article 131 or 131-B of the Education Law in which a statement of charges of professional misconduct was not served on or before July 26, 1991, the effective date of chapter 606 of the Laws of 1991):

- (1) . . .
- (2) . . .
- (3) . . .
- (4) . . .
- (5) . . .
- (6) . . .
- (7) . . .
- (8) . . .
- (9) . . .
- (10) . . .
- (11) . . .
- (12) . . .
- (13) . . .
- (14) . . .

2. Section 52.26 of the Regulations of the Commissioner of Education is amended, as follows:

Section 52.26. [Certified] *Registered* dental assisting

(a) Definitions. As used in this section:

- (1) . . .
- (i) . . .
- (ii) . . .

(iii) . . .

(2) Professional dental assisting content area shall mean course work relevant to the practice of [certified] *registered* dental assisting, accompanied where appropriate by laboratory and/or equivalent clinical experiences, which includes, but is not limited to, the following curricular areas:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(3) Clinical content area shall mean course work in clinical procedures which includes, but is not limited to, the following curricular areas:

(i) chairside dental assisting and dental laboratory procedures appropriate to the practice of [certified] *registered* dental assisting which shall include, but not be limited to, specific course work in the following clinical procedures subject to the restrictions set forth in section 61.13(c) of this Title:

(a) . . .

(b) . . .

(c) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(4) . . .

(b) Curriculum. In addition to meeting all applicable provisions of this Part, to be registered as a program recognized as leading to licensure in [certified] *registered* dental assisting which meets the requirements of section 61.11 of this Title, it shall be

(1) either:

(i) a one-year program in [certified] *registered* dental assisting, consisting of at least 24 semester hours or its equivalent, which is offered in an educational setting prescribed in section 6608-b(4)(B)(i) of the Education Law, such program to include:

(a) . . .

(b) at least 200 hours of clinical experience in the practice of [certified] *registered* dental assisting, as defined in section 6608 of the Education Law and section 61.13 of this Title, under the direct personal supervision of a licensed dentist; or

(ii) an alternate course of study in [certified] *registered* dental assisting, which requires the student to complete equivalent study as that required in a program prescribed in subparagraph (i) of this paragraph and in an educational setting prescribed in section 6608-b(4)(B)(ii) of the Education Law, such course of study to include:

(a) . . .

(b) at least 1,000 hours of relevant work experience constituting a clinical experience in the practice of [certified] *registered* dental assisting, as defined in section 6608 of the Education Law and section 61.13 of this Title, under the direct personal supervision of a licensed dentist.

(2) The programs prescribed in paragraph (1) of this subdivision shall have sufficient content, scope and depth to prepare a student for the practice of [certified] *registered* dental assisting, as defined in section 6608 of the Education Law and section 61.13 of this Title.

(3) Clinical facilities. A written contract or agreement shall be executed between the educational institution conducting the [certified] *registered* dental assisting program and the clinical facility or agency which is designated to cooperate in providing the clinical experience, which shall set forth the responsibilities of each party, and shall be signed by the responsible officer of each party.

3. Subdivision (d) of section 61.9 of the Regulations of the Commissioner of Education is amended, as follows:

(d) The dental supportive services that a licensed dentist authorizes a [certified] *registered* dental assistant to perform under section 61.13(b)(18) of this Part, designated in such paragraph as other dental supportive services, may be performed by a licensed dental hygienist under the personal supervision of a licensed dentist who has delegated such function to the licensed dental hygienist, unless general supervision for such service is otherwise expressly prescribed in this section.

4. Section 61.11 of the Regulations of the Commissioner of Education is amended, as follows:

Section 61.11. Professional study of [certified] *registered* dental assisting

(a) . . .

(b) To meet the professional education requirement for licensure as a [certified] *registered* dental assistant in this State, the applicant shall present satisfactory evidence of:

(1) . . .

(2) completion of a program in [certified] *registered* dental assisting that is either registered by the department pursuant to Part 52 of this Title,

or accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of such a registered or accredited program.

5. Section 61.12 of the Regulations of the Commissioner of Education is amended, as follows:

Section 61.12. Licensing examination for [certified] *registered* dental assistant

(a) Each candidate for licensure as a [certified] *registered* dental assistant shall pass an examination that the department has determined measures the applicant's knowledge of curricular areas attained in a program prescribed in section 52.26 of this Title and other matters of law, ethics, or practice deemed appropriate by the department.

(b) . . .

6. Section 61.13 of the Regulations of the Commissioner of Education is amended, as follows:

Section 61.13. Practice of [certified] *registered* dental assisting

(a) The practice of [certified] *registered* dental assisting shall be that practice defined in section 6808 of the Education Law. In accordance with section 6608 of the Education Law, the practice of [certified] *registered* dental assisting must be supportive services to a licensed dentist in the dentist's performance of dental services and must be performed under the direct personal supervision of a licensed dentist. For purposes of this section, under the direct personal supervision of a licensed dentist shall mean supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the responsibility of the licensed dentist, evaluates the services performed by the *registered* dental assistant. Such practice shall include the dental supportive service prescribed in subdivision (b) of this section and shall exclude the dental supportive services prescribed in subdivision (c) of this section.

(b) The practice of [certified] *registered* dental assisting shall include the following supportive services to a licensed dentist while under the direct personal supervision of the licensed dentist:

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(8) . . .

(9) . . .

(10) . . .

(11) . . .

(12) . . .

(13) . . .

(14) . . .

(15) . . .

(16) . . .

(17) . . .

(18) other dental supportive services authorized by the licensed dentist while the [certified] *registered* dental assistant is under the direct personal supervision of the licensed dentist, provided that such other dental supportive services are not excluded in subdivision (c) of this section.

(c) Excluded dental supportive services. The practice of [certified] *registered* dental assisting shall not include the following dental supportive services:

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) such dental supportive services that a [certified] *registered* dental assistant would not reasonably be qualified to perform based upon meeting the requirements for certification as a [certified] *registered* dental assistant in section 6608-b of the Education Law, and/or obtaining additional legally authorized experience in the practice of [certified] *registered* dental assisting.

(d) In accordance with section 29.1(b)(9) and (10) of this Title, a [certified] *registered* dental assistant is not permitted to provide dental supportive services that the [certified] *registered* dental assistant knows or has reason to know that he or she is not competent to perform, and a licensed dentist is not permitted to delegate to a [certified] *registered* dental assistant dental supportive services the licensed dentist knows or has reason to know that the [certified] *registered* dental assistant is not qualified by training, experience or by licensure to perform.

7. Section 61.14 of the Regulations of the Commissioner of Education is amended, as follows:

Section 61.14. Limited permits in [certified] *registered* dental assisting

(a) . . .

(b) In accordance with section 6608-d of the Education Law, permits limited to eligibility, practice, and duration shall be issued by the department to eligible applicants as follows:

(1) A person who meets all requirements for admission to the licensure examination for [certified] *registered* dental assisting shall be eligible for a limited permit as a [certified] *registered* dental assistant.

(2) A [certified] *registered* dental assistant permittee shall be authorized to practice only under the direct personal supervision of a licensed dentist.

(3) An application for a limited permit in [certified] *registered* dental assisting shall be submitted on a form provided by the department and shall be accompanied by the statutory fee.

(4) Limited permits in [certified] *registered* dental assisting shall expire one year from the date granted, except that such permits may be renewed for one additional one-year period.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire February 2, 2020.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Douglas E. Lentivech, Education Department, Office of the Professions, 89 Washington Avenue, 2nd Floor EB, West Wing, Albany, NY 12234, (518) 486-1727, email: REGCOMMENTS@nysed.gov

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to and the practice of the professions.

Section 6509 of the Education Law authorizes the Board of Regents to promulgate rules regarding professional misconduct in certain professions.

Section 6608 of the Education Law, as amended by Chapter 390 of the Laws of 2019, defines the practice of registered dental assisting.

Section 6608-a of the Education Law, as amended by Chapter 390 of the Laws of 2019, establishes title protection for the title "registered dental assistant."

2. LEGISLATIVE OBJECTIVES:

The proposed amendment to section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education is consistent with the above statutory authority and implements Chapter 390 of the Laws of 2019 (Chapter 390) by changing the references, in those sections, from "certified dental assistant" and "certified dental assisting" to "registered dental assistant" and "registered dental assisting."

3. NEEDS AND BENEFITS:

The proposed amendment implements Chapter 390, which, effective October 23, 2019, inter alia, amended the Education Law by creating the new legally protected title of "registered dental assistant" and eliminating the prior protected title of "certified dental assistant." The prior title of certified dental assistant was causing confusion between individuals certified by the Department and individuals certified by the National Dental Assisting Board (DANB). This confusion led to some unintentional criminal violations for those individuals who illegally used the certified dental assistant title in this State when they possessed only DANB certification. Additionally, both dentists and the public were confused by which certified dental assistants were licensed by New York State and which were only DANB-certified.

Chapter 390 eliminated these issues by changing the protected title of the profession to registered dental assistant and replacing all the references in Article 133 of the Education Law to the prior title of certified dental assistant with the title registered dental assistant.

The proposed amendment conforms section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education to the amendment made to Article 133 of the Education Law by Chapter 390.

4. COSTS:

(a) Costs to State government: There are no additional costs to State government.

(b) Costs to local government: There are no additional costs to local government.

(c) Cost to private regulated parties: The proposed amendment does not impose any additional costs on either current or prospective registered dental assistants.

(d) Cost to the regulatory agency: There are no additional costs to the State Education Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any program, service, duty, or responsibility on local governments.

6. PAPERWORK:

There are no new forms, reporting requirements, or other recordkeeping associated with the proposed amendment.

7. DUPLICATION:

The proposed amendment does not duplicate any other existing State or federal requirements.

8. ALTERNATIVES:

The proposed amendment conforms section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education to the amendment made to Article 133 of the Education Law by Chapter 390 by changing the references, in those sections, from "certified dental assistant" and "certified dental assisting" to "registered dental assistant" and "registered dental assisting."

There are no significant alternatives to the proposed amendment and none were considered.

9. FEDERAL STANDARDS:

No Federal standards apply to the subject matter of this rule making. The Federal government does not regulate the professional title naming and/or title protection requirements for dental assistants in New York State. Since there are no applicable federal standards, the proposed amendment does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE:

If adopted at the February 2020 Regents meeting, the proposed amendment will become effective on February 26, 2020. It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

Regulatory Flexibility Analysis

The purpose of the proposed amendment to section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education is to conform those sections to the amendment made to Article 133 of the Education Law by Chapter 390 (Chapter 390) of the Laws of 2019. Effective October 23, 2019, Chapter 390 amended the Education Law by creating the new legally protected title of "registered dental assistant" and eliminating the prior protected title of "certified dental assistant." The prior title of certified dental assistant was causing confusion between individuals certified by the Department and individuals certified by the National Dental Assisting Board (DANB). This confusion led to some unintentional criminal violations for those individuals who illegally used the certified dental assistant title in this State when they possessed only DANB certification. Additionally, both dentists and the public were confused by which certified dental assistants were licensed by New York State and which were only DANB-certified.

It is anticipated that the proposed amendment will assist in eliminating these issues by changing the protected title of the profession to registered dental assistant and replacing all the references in the aforementioned regulatory provisions to the prior title of certified dental assistant with the title registered dental assistant.

The proposed amendment will not impose any reporting, recordkeeping, or other compliance requirements or costs, or have an adverse impact, on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

Rural Area Flexibility Analysis

The purpose of the proposed amendment to section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education is to conform those sections to the amendment made to Article 133 of the Education Law by Chapter 390 (Chapter 390) of the Laws of 2019. Effective October 23, 2019, Chapter 390 amended the Education Law by creating the new legally protected title of "registered dental assistant" and eliminating the prior protected title of "certified dental assistant." The prior title of certified dental assistant was causing confusion between individuals certified by the Department and individuals certified by the National Dental Assisting Board (DANB).

ing Board (DANB). This confusion led to some unintentional criminal violations for those individuals who illegally used the certified dental assistant title in this State when they possessed only DANB certification. Additionally, both dentists and the public were confused by which certified dental assistants were licensed by New York State and which were only DANB-certified.

It is anticipated that the proposed amendment will assist in eliminating these issues by changing the protected title of the profession to registered dental assistant and replacing all the references in the aforementioned regulatory provisions to the prior title of certified dental assistant with the title registered dental assistant.

The proposed amendment changing the protected title of this profession to registered dental assistant and the elimination of the prior title of certified dental assistant is applicable to all current licensees in this profession and applicants for licensure in it, including those in rural areas of this State. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

It is not anticipated that the proposed amendment will impact jobs or employment opportunities. This is because the proposed amendment conforms section 29.2 of the Rules of the Board of Regents and sections 52.26, 61.9, 61.11, 61.12, 61.13 and 61.14 of the Regulations of the Commissioner of Education to the amendment made to Article 133 of the Education Law by Chapter 390 (Chapter 390) of the Laws of 2019. Effective October 23, 2019, Chapter 390 amended the Education Law by creating the new legally protected title of "registered dental assistant" and eliminating the prior protected title of "certified dental assistant." The prior title of certified dental assistant was causing confusion between individuals certified by the Department and individuals certified by the National Dental Assisting Board (DANB). This confusion led to some unintentional criminal violations for those individuals who illegally used the certified dental assistant title in this State when they possessed only DANB certification. Additionally, both dentists and the public were confused by which certified dental assistants were licensed by New York State and which were only DANB-certified.

Chapter 390 eliminated these issues by changing the protected title of the profession to registered dental assistant and replacing all the references in Article 133 of the Education Law to the prior title of certified dental assistant with the title registered dental assistant.

The proposed amendment will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed amendment that it will have no impact on jobs or employment opportunities attributable to its adoption or only a positive impact, no affirmative steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Physical Education Requirements for a Diploma and Transfer Credits for Students Earning Credit in an Educational Program

I.D. No. EDU-47-19-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 100.5 of Title 8 NYCRR.

Statutory authority: Education Law, sections 101, 112, 207, 208, 209, 210, 215, 305, 209, 3202, 3204; L. 2017, ch. 59, part WWW

Subject: Physical Education Requirements for a Diploma and Transfer Credits for Students Earning Credit in an Educational Program.

Purpose: To implement Raise the Age legislation pursuant to Part WWW of chapter 59 of the Laws of 2017.

Text of proposed rule: 1. Paragraph (4) of subdivision (a) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(4)(i) . . .

(ii) Students who enter a registered New York State high school and have completed one or more semesters in a high school outside New York State or in a residential facility or home operated or supervised by any state agency pursuant to Education Law section 112 and 3202(7) and/or Parts 116 or 118 of this Title shall be exempt from the required two units of credit requirement in physical education for a diploma. Instead, such students shall be required to enroll in physical education courses

every semester they are in a registered New York State high school, and shall earn 1/4 unit of credit in physical education for each semester completed in a registered New York State high school to meet the diploma requirements.

2. Paragraph (1) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(d) Alternatives to Specific Regents and local diploma requirements.

(1) Credit by examination. A student may earn a maximum of 6 1/2 units of credit for either a Regents or local diploma without completing units of study for such units of credit, if:

(i) based on the student's past academic performance, the superintendent of a school district or the chief administrative officer of a registered nonpublic high school or the chief administrator of an educational program administered or supervised by any State agency pursuant to Education Law sections 112 and 3202(7) and/or Parts 116 or 118 of this Title, or his or her designee, determines that the student will benefit academically by exercising this alternative;

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) . . .

3. Paragraph (5) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(5) Transfer credit. Transfer credit is awarded for work done outside the registered New York State high school awarding the credit.

(i) The principal shall evaluate the transcript or other records of a transfer student enrolling in a New York State high school. Based on the student's transcript or other records, the principal shall award the appropriate units of transfer credit towards a high school diploma.

(a) Registered high schools. The principal shall grant transfer credit for all credit awarded by any New York State registered public or nonpublic high schools.

(b) Other educational/cultural institutions and independent study.

(1) Except as provided in subclause (2) of this clause, the principal, after consultation with relevant faculty, may award transfer credit for work done at other educational and cultural institutions and for work done through independent study. The decision as to whether or not to award transfer credit for work done at educational institutions other than New York State registered high schools shall be based on whether the record indicates that the work is consistent with New York State commencement learning standards and is of comparable scope and quality to that which would have been done in the school awarding the credit.

(2) Transfer credit by attestation [(State agency educational programs)] (*Educational program administered or supervised by a State agency*).

(i) Definitions. For purposes of this subdivision, "State agency" means a State department or agency or political subdivision, except a board of education or a board of cooperative educational services, that provides or supervises an educational program pursuant to Education Law sections 112 and 3202(7) and Parts 116 or 118 of this Title.

(ii) A principal shall award transfer credit to any student for credit awarded while the student attended an educational program administered or supervised by a State agency pursuant to Education Law sections 112 and 3202(7) and Parts 116 or 118 of this Title, upon the attestation of the chief administrator of such program, in a format prescribed by the commissioner, of the following:

(A) the student:

(I) has completed coursework that is aligned with the applicable New York State commencement-level learning standards, including the New York State Common Core Learning Standards, and that meets the requirements of this Part for the award of units of credit including, but not limited to, the requirement for 180 minutes of instruction per week throughout the school year, or the equivalent, as set forth in section 100.1(a) of this Part; and/or

(II) has met the requirements for the award of credit by examination pursuant to paragraph (1) of this subdivision; and/or

(III) has met the requirements for the award of make-up credit pursuant to paragraph (8) of this subdivision; and/or

(IV) has met the requirements for the award of credit for independent study pursuant paragraph (9) of this subdivision; and/or

(V) has met the requirements for the award of credit for online and/or blended courses pursuant to paragraph (10) of this subdivision; and

(B) the student was provided instruction by a teacher certified pursuant to Part 80 of this Title or, where the coursework was for make-up credit or in online and/or blended courses, the student was provided instruction in accordance with the requirements of paragraphs (8) and (10), respectively, of this subdivision.

4. Paragraph (8) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(8) Making up incomplete or failed course credit. Commencing July 1, 2011 and thereafter, a school district, registered nonpublic school, charter school or the chief administrator of an educational program administered *or supervised* by a State agency pursuant to Education Law sections 112 and 3202(7) and Parts 116 and 118 of this Title may provide a student, who had the opportunity to complete a unit of study in a given high school subject but who failed to demonstrate mastery of the learning outcomes for such subject, with an opportunity to make up a unit of credit for such subject toward either a Regents or local diploma, pursuant to the following:

5. Paragraph (9) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(9) Credit for independent study. Students enrolled in a school district, a charter school, a registered nonpublic school or educational program administered *or supervised* by a State agency pursuant to Education Law sections 112 and 3202(7) and Parts 116 and 118 of this Title may earn a maximum of three units of elective credit towards a Regents diploma through independent study, pursuant to the following:

6. Paragraph (10) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(10) Credit for online and blended courses.

(i) . . .

(ii) A school district, a charter school, a registered nonpublic school or the chief administrator of an educational program administered *or supervised* by a State agency pursuant to Education Law sections 112 and 3202(7) and Parts 116 and 118 of this Title may provide its students with an opportunity to earn units of credit towards a Regents diploma through online and/or blended course study, pursuant to the following:

Text of proposed rule and any required statements and analyses may be obtained from: Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Kathleen DeCataldo, Education Department, Office of Student Support Services, 89 Washington Avenue, Room 318M EB, Albany, NY 12234, (518) 486-7365, email: regcomments@nysed.gov

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Education Law § 101 (not subdivided) charges the Department with the general management and supervision of all public schools and all of the educational work of the state.

Education Law § 112 provides that the Department shall establish and enforce standards of instruction, personnel qualifications and other requirements for education services or programs with respect to the individual requirements of children who are in full-time residential care in facilities or homes operated or supervised by any state department or agency or political subdivision.

Education Law § 207 grants general rule making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Education Law section 208 authorizes the Regents to establish examinations as to attainments in learning and to award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

Education Law section 209 authorizes the Regents to establish secondary school examinations in studies furnishing a suitable standard of graduation and of admission to colleges; to confer certificates or diplomas on students who satisfactorily pass such examinations; and requires the admission to these examinations of any person who shall conform to the rules and pay the fees prescribed by the Regents.

Education Law section 210 authorizes Regents to register domestic and foreign institutions in terms of State standards, and fix the value of degrees, diplomas and certificates issued by institutions of other states or countries and presented for entrance to schools, colleges and professions in the State.

Education Law § 215 authorizes the Regents to visit and inspect any educational institution under its supervision in the state and to require reporting from such institutions.

Education Law § 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law § 309 provides that schools of every union free school district and of every city in all their departments shall be subject to the visitation of the Commissioner and further provides that the Commis-

sioner is charged with the general supervision of their boards of education and their management and conduct of all departments of instruction.

Education Law § 3202(7) provides that a person over five and under twenty-one years of age who has not received a high school diploma and who is incarcerated in a correctional facility maintained by a county or by the city of New York or in a youth shelter is eligible for educational services by the school district in which the facility or youth shelter is located.

Education Law § 3204(1) provides that a minor required to attend upon instruction may attend at a public school or elsewhere. Section 3204(2) requires, among other things, that instruction may be given only by a competent teacher, English shall be the language of instruction, and that instruction in nonpublic schools must be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools. Section 3204(3) provides for required courses of study in the public schools and authorizes the State Education Department to alter such required subjects of instruction.

Part WWC of Chapter 59 of the Laws of 2017 relates to proceedings against juvenile and adolescent offenders and the age of juvenile and adolescent offenders.

2. LEGISLATIVE OBJECTIVES:

The proposed amendments to section 100.5 of the Regulations of the Commissioner are consistent with the above statutory authority and are necessary to conform the Commissioner's Regulations to Part WWC of Chapter 59 of the Laws of 2019. The purpose of the proposed amendment is to implement provisions relating to the physical education requirements for a diploma and transfer credits for students earning credit in an education program pursuant to Education Law §§ 112 and 3202(7) and Parts 116 and 118 of the Regulations of the Commissioner.

3. NEEDS AND BENEFITS:

On April 10, 2017, the Raise the Age (RtA) legislation was enacted (Part WWC of Chapter 59 of the Laws of 2017). Implementation of this law was phased in. Beginning on October 1, 2018, the new provisions took effect for offenses committed by 16-year olds and on October 1, 2019, the new provisions took effect for offenses committed by 17-year olds.

The Department has hosted or participated in numerous meetings with leaders and staff from the New York State Office of Children and Family Services (OCFS), and the New York State Division of Criminal Justice Services (DCJS) and the Division of Corrections and Community Services (DOCCS), and non-secure and secure detention facilities to both answer questions and learn more about the providers' concerns regarding their ability to provide the robust educational programming needed to engage these youth and to provide opportunities that lead them toward a path of success.

One of the most concerning issues raised was the failure of school districts to award credit for school work completed by students while detained, placed or incarcerated. Students who attend educational programs operated by juvenile and criminal justice agencies other than the Office of Children and Family Services and other State agencies pursuant to Education Law § 112 and Part 116 of the Commissioner's Regulations are not automatically granted credit for their coursework because such facilities are not registered high schools. Rather, upon a student transferring to a public school, each principal makes an individual determination to grant or deny the student credit for such coursework based upon whether the principal deems the coursework done at a State agency facility to be comparable. In 2014, the Department amended Commissioner's Regulations section 100.5(d) to provide that principals of registered public high schools shall grant transfer credit to a student for credit awarded while the student attended an educational program administered by a State agency pursuant to Education Law § 112 and Part 116 of the Commissioner's Regulations, upon the attestation of the chief administrator of such program that:

- the student has completed coursework that is aligned with the applicable New York State commencement-level learning standards, including the New York State Common Core Learning Standards, and meets the requirements for the award of units of credit including, but not limited to, the requirement for 180 minutes of instruction per week throughout the school year, or the equivalent; and
- the student was provided instruction by a teacher certified pursuant to Part 80 of this Title.

The proposed amendment extends the attestation provisions to additional settings where system-involved youth are receiving an education.

Currently, the diploma requirements require that a student complete two units of credit in Physical Education (PE) and that students participate in PE every semester they are enrolled in school, even if they have met the required two credits and remain in school beyond their senior year.

Due to the Civil Service titles and the unique needs and nature of the education programs offered by juvenile and criminal justice system facilities, students receive extensive physical education, but the classes are taught by recreational specialists, who may or may not be certified physical education teachers. When the students transfer back to high school part

way through high school, they are finding themselves severely under credited in physical education, notwithstanding the fact that they have spent hours in physical education classes in these facilities. This often results in, at best, course selections being impacted due to the necessity to enroll in 2 or 3 PE courses each semester to catch up, or at worst, students not graduating on time.

Therefore, to address the unique needs of this student population, the Department proposes a revision to section 100.5(d)(5) of Commissioner's Regulations to provide these students with the same exemption currently provided to students transferring from another state and students of military families, who transfer into a registered New York state high school from another state, to allow such students to be exempt from the required two units of credit requirement in physical education to meet the diploma requirements. Instead, such students shall be required to enroll in physical education courses every semester they are in a registered New York State high school and shall earn $\frac{1}{4}$ unit of credit for each semester of physical education completed in a registered New York State high school to meet the diploma requirements.

The Department further proposes an amendment to allow students who have earned the required number of credits in physical education to meet the diploma requirements, but may need more than 8 semesters to graduate due to other course or assessment deficiencies, to be permitted to stop enrolling in physical education courses. Often students need to return beyond their senior year to make up a failed course or attend preparatory sessions to pass failed assessments, and the current regulation requires these students to enroll in physical education courses for those semesters as well, even though they have met the required number of diploma credits for graduation. The proposed amendment will eliminate this requirement.

4. COSTS:

a. Costs to State government: The amendments do not impose any costs on State government, including the State Education Department.

b. Costs to local government: The amendments do not impose any costs on local government.

c. Costs to private regulated parties: The amendments do not impose any costs on private regulated parties.

d. Costs to regulating agency for implementation and continued administration: The amendments do not impose any costs on the regulating agency for implementation and continued administration.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government.

6. PAPERWORK:

The proposed amendment does not impose any additional paperwork requirements.

7. DUPLICATION:

The proposed amendment does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:

The propose amendment is necessary to conform the Commissioner's Regulations to Part WWW of Chapter 59 of the Laws of 2017. There were no significant alternatives and none were considered.

9. FEDERAL STANDARDS:

There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:

It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the February 2020 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the February 2020 meeting, the proposed amendment will become effective on February 26, 2020.

Regulatory Flexibility Analysis

The purpose of the proposed amendment to section 100.5 of the Regulations of the Commissioner of Education is to conform such section to the amendments made by Part WWW of Chapter 59 of the laws of 2017 and to implement provisions relating to the physical education requirements for a diploma and transfer credits for students earning credit in an education program pursuant to Education Law §§ 112 and 3202(7) and Parts 116 and 118 of the Regulations of the Commissioner of Education.

Currently, the diploma requirements require that a student complete two units of credit in Physical Education (PE) and that students participate in PE every semester they are enrolled in school, even if they have met the required two credits and remain in school beyond their senior year.

Due to the Civil Service titles and the unique needs and nature of the education programs offered by juvenile and criminal justice system facilities, students receive extensive physical education, but the classes are taught by recreational specialists, who may or may not be certified physical education teachers. When the students transfer back to high school part way through high school, they are finding themselves severely under credited in physical education, notwithstanding the fact that they have spent hours in physical education classes in these facilities. This often

results in, at best, course selections being impacted due to the necessity to enroll in 2 or 3 PE courses each semester to catch up, or at worst, students not graduating on time.

Therefore, to address the unique needs of this student population, the Department proposes a revision to section 100.5(d)(5) of Commissioner's Regulations to provide these students with the same exemption currently provided to students transferring from another state and students of military families, who transfer into a registered New York state high school from another state, to allow such students to be exempt from the required two units of credit requirement in physical education to meet the diploma requirements. Instead, such students shall be required to enroll in physical education courses every semester they are in a registered New York State high school and shall earn $\frac{1}{4}$ unit of credit for each semester of physical education completed in a registered New York State high school to meet the diploma requirements.

The Department further proposes an amendment to allow students who have earned the required number of credits in physical education to meet the diploma requirements but may need more than 8 semesters to graduate due to other course or assessment deficiencies, to be permitted to stop enrolling in physical education courses. Often students need to return beyond their senior year to make up a failed course or attend preparatory sessions to pass failed assessments, and the current regulation requires these students to enroll in physical education courses for those semesters as well, even though they have met the required number of diploma credits for graduation. The proposed amendment will eliminate this requirement.

The propose amendment will not impose any reporting, recordkeeping, or other compliance requirements or costs, or have an adverse impact, on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed amendments apply to all teachers of students with disabilities who hold a Students with Disabilities Generalist certificate in grades 7-12 and teach one or more core subject areas in special classes, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The purpose of the proposed amendment to section 100.5 of the Regulations of the Commissioner of Education is to conform such section to the amendments made by Part WWW of Chapter 59 of the laws of 2017 and to implement provisions relating to the physical education requirements for a diploma and transfer credits for students earning credit in an education program pursuant to Education Law §§ 112 and 3202(7) and Parts 116 and 118 of the Regulations of the Commissioner of Education.

Currently, the diploma requirements require that a student complete two units of credit in Physical Education (PE) and that students participate in PE every semester they are enrolled in school, even if they have met the required two credits and remain in school beyond their senior year.

Due to the Civil Service titles and the unique needs and nature of the education programs offered by juvenile and criminal justice system facilities, students receive extensive physical education, but the classes are taught by recreational specialists, who may or may not be certified physical education teachers. When the students transfer back to high school part way through high school, they are finding themselves severely under credited in physical education, notwithstanding the fact that they have spent hours in physical education classes in these facilities. This often results in, at best, course selections being impacted due to the necessity to enroll in 2 or 3 PE courses each semester to catch up, or at worst, students not graduating on time.

Therefore, to address the unique needs of this student population, the Department proposes a revision to section 100.5(d)(5) of Commissioner's Regulations to provide these students with the same exemption currently provided to students transferring from another state and students of military families, who transfer into a registered New York state high school from another state, to allow such students to be exempt from the required two units of credit requirement in physical education to meet the diploma requirements. Instead, such students shall be required to enroll in physical education courses every semester they are in a registered New York State high school and shall earn $\frac{1}{4}$ unit of credit for each semester of physical education completed in a registered New York State high school to meet the diploma requirements.

The Department further proposes an amendment to allow students who have earned the required number of credits in physical education to meet the diploma requirements but may need more than 8 semesters to graduate

due to other course or assessment deficiencies, to be permitted to stop enrolling in physical education courses. Often students need to return beyond their senior year to make up a failed course or attend preparatory sessions to pass failed assessments, and the current regulation requires these students to enroll in physical education courses for those semesters as well, even though they have met the required number of diploma credits for graduation. The proposed amendment will eliminate this requirement.

3. COSTS:

The proposed amendments does not impose any additional costs on the State, regulated parties, or the State Education Department, beyond those inherent in the statute.

4. MINIMIZING ADVERSE IMPACT:

The propose amendment is necessary to conform the Regulations of the Commissioner of Education with Part WWW of Chapter 59 of the Laws of 2017. There were no significant alternatives and none were considered.

5. RURAL AREA PARTICIPATION:

Copies of the proposed amendments have been provided to the Rural Advisory Committee for review and comment.

Job Impact Statement

The purpose of the proposed amendment to section 100.5 of the Regulations of the Commissioner of Education is to conform such section to the amendments made by Part WWW of Chapter 59 of the laws of 2017 and to implement provisions relating to the physical education requirements for a diploma and transfer credits for students earning credit in an education program pursuant to Education Law §§ 112 and 3202(7) and Parts 116 and 118 of the Regulations of the Commissioner of Education.

The proposed amendment will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed amendment that it will have no impact on jobs or employment opportunities attributable to its adoption or only a positive impact, no affirmative steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

State Board of Elections

EMERGENCY RULE MAKING

Ballot Accountability Practices

I.D. No. SBE-35-19-00003-E

Filing No. 1001

Filing Date: 2019-11-05

Effective Date: 2019-11-05

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 6210.7 and 6210.10 of Title 9 NYCRR.

Statutory authority: Election Law, sections 7-105 and 3-102(17)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: The Commissioners determined that it is necessary for the preservation of the general welfare that this amendment be adopted on an emergency basis as authorized by section 202(6) of the State Administrative Procedure Act, effective immediately upon filing with the Department of State. This amendment is adopted as an emergency measure because time is of the essence and to adopt the regulation in the normal course of business would be contrary to the general welfare. Chapter 63 of the Laws of 2019 requires that ballot accountability related to Early Voting be implemented by the November 5, 2019 general election. Local boards of elections will not have adequate time to budget and plan for early voting by the general election, including the auditing of voting machines and systems used for early voting, if this amendment were to be adopted in the normal course of business.

Subject: Ballot Accountability Practices.

Purpose: Establishes additional ballot accountability procedures.

Text of emergency rule: Part 6210.7 and 6210.10 are hereby amended to read as follows:

§ 6210.7

(a) For the production of paper ballots or ballot faces for DRE voting systems, the county board shall contract with a printer or use in-house print services that have the requisite expertise, staff, and equipment for

printing ballots of the complexity and in the volume required for the conduct of elections in that county, and that ensures delivery of finished ballots in time to comply with the relevant provisions of the Election Law and the election calendar.

(b) Detailed specifications for production of ballots shall be supplied to the county board by the voting system vendor. These shall include but not be limited to particulars of the system's ballot such as weight, grain and color of stock; dimensions of ballot faces, ballots and ballot cards; corner cuts; perforations, both for ballot boundaries and for stub boundaries, when appropriate; ballot positions, sensitive areas and voting targets; pre-marks for imprinting of ballot configuration information; printing registration and tolerances; ink; use of drying powder; and packaging of printed ballots for shipment and for storage until time of use. The county board shall transmit these specifications to the printer chosen to produce its ballots.

(c) In the first year that the voting system is in use, a copy of the final form and arrangement of each ballot configuration shall be filed with the State Board.

(d) Ballots shall be identified by ballot configuration, using marks which are machine readable and human readable text. *A sheet of ballot paper becomes a ballot when the contents of the ballot are printed thereon.*

(e) Ballots to be used with poll site optical scan voting systems, shall be in a form consistent with Election Law [section 7-106]. Each ballot shall have a numbered stub which can be separated from it along a perforated boundary. Such ballot shall be detached from the numbered stub prior to the election inspector giving the ballot to the voter and be retained by the county board in a manner consistent with election-related document retention requirements. *Ballot stubs, however, shall not be required if the board of elections implements procedures to provide for ballot accountability equivalent to the use of ballot stubs as provided for in subdivision 6210.10(b) of this Part.*

(1) The ballot stubs, *when required*, shall be sequentially numbered, and shall include the date of the election, the political subdivision in which the ballot is valid, and in a primary election, the name of the party conducting the primary, and further, stubs may be color coded, to correspond to same.

(2) Ballot stubs, *when required*, shall include spaces for inspectors to indicate with their initials, whether the ballot was used for affidavit or emergency purposes.

(3) Ballots shall be bound in [booklets] *packages* of 100, or in such other increments as a county board may, by written procedure, deem appropriate. *When ballot stubs are used, [B]inding shall be by staples, to help ensure ballot accountability. Packages of ballots not requiring ballot stubs shall be shrink wrapped or otherwise sealed in a heat-sealed or gummed bag with a cover.*

(4) Ballot [booklets] *packages* shall have a cover, on which shall be printed the date of the election, the political subdivision in which the ballot [booklet] *package* shall be valid, the number of ballots therein, the sheet number of a ballot when it is part of a multiple sheet ballot, the range of sequential ballot stub numbers contained therein, if applicable, and such other administrative information as the county board may deem necessary. In primary elections, booklet covers shall include the name of the party conducting a primary, and may be color coded, to correspond to same.

(5) When more than one ballot [booklet] *package* is to be used in any election district, a transmittal sheet shall accompany the [booklets] *packages*, which shall specify how many [booklets] *packages* are included [in the inspector supply bag], the number of ballots in total and the complete range of sequential ballot stub numbers for that district, if applicable, and shall further provide a space or spaces for inspectors to confirm receipt of all ballots.

(6) Ballot [booklet(s)] *packages* and any transmittal sheet, shall be delivered to inspectors with other election day supplies, in a separate, secure, sealed and labeled *container*, envelope or pouch.

(7) Only one ballot [booklet] *package* at a time should be on the inspector table, and the remaining booklets shall be kept in their secure *container*, envelope or pouch[, in the inspector supply case].

(8) *Upon opening a package of ballots that are not stubbed, the inspectors shall count the number of ballots in such package to ensure it is the number indicated on the coversheet.* When all ballots in a [booklet] *package* have been used, leaving only the cover and the stapled pad of stubs, *in the case of ballots that are stubbed*, such [booklet] *package* shall be returned to the ballot [booklet] *package container/envelope/pouch* and the next appropriately numbered ballot [booklet] *package* shall be removed for use.

(9) After the close of polls, the transmittal sheet shall be completed by the inspectors, indicating which [booklets] *packages* were completely used, partially used, or not used. The ballot [booklet] *package container/envelope/pouch* shall be sealed and returned to the county board with all other election day supplies.

(f) The county board shall cause its respective printer(s) to certify to the county board, upon delivery of ballots ordered:

- (1) the actual number of ballots printed;
- (2) the number of ballots delivered; and
- (3) that all other ballots printed have been destroyed.

The county board shall inventory all ballots and ensure the security of any and all ballots while they are in the possession of the county board.

(g) For central count paper-based voting systems, ballots printed for absentee voting, and those printed for emergency, special and affidavit purposes shall be tabulated by batch, and be subject to all appropriate provisions of these regulations. The county board shall provide a means by which affidavit, emergency, and special ballots shall be distinguished from absentee ballots.

(h) *Ballots With Multiple Sheets.* A board of elections may provide a voter a ballot consisting of more than one separate, unconnected sheets, provided:

(1) *The ballot includes a statement that the voter must receive the number of ballot sheets the voter is entitled to, specifying such number. Such notice may be substantially in the following form: "Your ballot consists of (here insert the total number of sheets comprising the ballot) separate sheets. All of the sheets must be provided to you at the same time."*

(2) *Each ballot sheet shall be prominently labeled as "ballot sheet (here insert the number of the ballot sheet) of (here insert the total number of sheets comprising the ballot)."*

(3) *Ballot accountability and reconciliation procedures shall apply to each sheet of a multiple sheet ballot. Each sheet of a multiple sheet ballot may be spoiled without spoiling another sheet comprising the same multiple sheet ballot.*

(i) *Ballots Printed on Demand*

(1) *Ballot on demand printers and supplies shall be secured as provided by the procedures of the State Board of Elections.*

(2) *Inspectors shall keep a record of the number of ballots of each ballot style printed by a ballot on demand printer. Such ballots shall be considered delivered to the inspectors at the time of printing, and the inspectors shall record the distribution of such ballots in the same manner as provided for in this section. Logs maintained by the ballot on demand printer application may be used by the inspectors to meet the requirements of this paragraph to record the number of ballots printed.*

§ 6210.10 Ballot accounting

(a) Following the counting of all votes in an election, a full accounting of paper ballots shall be made, and shall be reported on a form to be provided by the State Board, and attested to by the county board commissioners which shall be retained in accordance with Election Law section 3-222, which shall include:

(1) For each entire election and for each ballot configuration used in it, the number of paper ballots shall equal the sum of paper ballots issued to voters and paper ballots not issued to voters, returned but not sent for tabulation because the voter voted at the polls, ballots spoiled, and paper ballots not returned. In each category of ballots issued, the report shall specify how many, if any, and in what category any emergency or affidavit ballots were used.

(2) For each entire election and for each ballot configuration used in it, the number of paper ballots not issued to voters shall equal the sum of the number of paper ballots used for testing/sample purposes and paper ballots remaining unissued and unused.

(b) [The ballot accounting report shall be attested to by the county board commissioners and shall be retained in accordance with Election Law section 3-222.] *Discontinuance of ballot stubs.* Ballot stubs shall not be required if the board of elections provides for the following ballot accountability requirements:

(1) *Election inspectors shall confirm receipt of ballot quantities by confirming ballot packages received and counting the number of ballots in a ballot package when it is first opened to confirm the quantity stated on the coversheet.*

(2) *Election inspectors shall retain a written running tally of ballots distributed by ballot style, including the total number of ballots distributed to voters, included in such number the number distributed as affidavit ballots, and the number of ballots spoiled. Such tally shall be maintained in a manner that would permit an interim reconciliation of ballots at any time during voting.*

(3) *At the close of polls, the inspectors shall record ballot reconciliation totals to verify the number of ballots distributed to voters or spoiled when added to the number of unvoted ballots equals the number of ballots received by the inspectors at the beginning of voting.*

(c) *Certification of ballot stub discontinuance.* Upon certification authorized by a majority vote of the commissioners of a board of elections filed with the State Board of Elections, that the procedures required in subdivision (b) of this section and all other applicable ballot requirements of this Part will be followed, for any election conducted thereafter the

board of elections may determine not to use ballot stubs. Nothing herein shall be construed to prevent a board of elections from using ballot stubs as provided for in this Part at any election, and nothing herein shall prevent the optional use of party color on a primary ballot.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. SBE-35-19-00003-EP, Issue of August 28, 2019. The emergency rule will expire January 3, 2020.

Text of rule and any required statements and analyses may be obtained from: Nicholas R. Cartagena, New York State Board of Elections, 40 N. Pearl Street, Suite 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.ny.gov.

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of emergency rule making, I.D. No. SBE-35-19-00003-EP, Issue of August 28, 2019.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. SBE-35-19-00003-EP, Issue of August 28, 2019.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. SBE-35-19-00003-EP, Issue of August 28, 2019.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of emergency rule making, I.D. No. SBE-35-19-00003-EP, Issue of August 28, 2019.

Department of Financial Services

NOTICE OF ADOPTION

Professional Bail Agents; Managing General Agents; et al

I.D. No. DFS-36-18-00003-A

Filing No. 994

Filing Date: 2019-11-01

Effective Date: 2020-03-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 28 (Regulation 42), 33 (Regulation 120) and 66 (Regulation 76) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 2307, 2314 and art. 68

Subject: Professional Bail Agents; Managing General Agents; et al.

Purpose: To provide greater protection to consumers and raise the standards of integrity in the bail bond business.

Text or summary was published in the September 5, 2018 issue of the Register, I.D. No. DFS-36-18-00003-P.

Final rule as compared with last published rule: No changes.

Revised rule making(s) were previously published in the State Register on July 31, 2019.

Text of rule and any required statements and analyses may be obtained from: Samantha Darche, Department of Financial Services, One State Street, New York, NY 10004, (212) 709-1695, email: Samantha.Darche@dfs.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Department of Financial Services ("DFS") received comments from an association of bail agents ("agents' association") and a coalition of advocate organizations ("advocate coalition").

The agents' association and advocate coalition made several comments that they previously submitted and that DFS addressed in its assessment of public comments, which were published in the State Register on July 31, 2019 (the "Assessment"). See the Assessment for detailed responses to those comments. DFS received the following new comments:

Comment: The advocate coalition requested that DFS engage with impacted parties, other advocates, and service providers on both a regular and ongoing basis to ensure enforcement, assess the efficacy of changes, and address evolving industry practices beginning immediately.

Response: DFS looks forward to working with all stakeholders to improve consumer protection and raise the standards of integrity in the bail industry. Since this comment does not directly relate to the language of the revised amendment, DFS did not make any changes to the amendment in response thereto.

Comment: The advocate coalition requested that DFS clearly lay out the process and timeline it is undertaking to create model documents and that DFS permit advocates and impacted people to participate through an open and transparent process.

Response: DFS plans to work with stakeholders to expeditiously promulgate model bail contracts. Since this comment does not directly relate to the language of the revised amendment, DFS did not make any changes to the amendment in response thereto.

Comment: The advocate coalition questioned the elimination of former section 28.8(b), which stated that "[n]o interest, fee, or other financing or service charge shall be permitted for payment of premium by installment unless the bail agent is licensed as a premium finance company pursuant to Banking Law section 555(1)."

Response: Bail agents may not offer interest-free financing and loans to clients because it would constitute an impermissible inducement under Insurance Law section 2324(a). See OGC Opinion 07-06-10 (June 12, 2007).

Comment: The advocate coalition stated that DFS's Assessment suggest that consumers who have a dispute over the timely return of collateral must engage with the insurer before bringing a complaint to DFS. The advocate coalition believes that it does not make sense for consumers to be told in disclosure forms to make complaints to DFS, except in so far as those complaints relate to collateral return, in which case they should complain to an insurer whose name they might not even know. The advocate coalition stated that, in its experience, insurers litigate these claims, and bail consumers are not typically well-positioned to proceed through costly litigation in civil court.

Response: Under the revised amendment, consumers have a path to recourse through the insurer when a bail agent fails to timely return collateral. Importantly, the revised amendment requires bail agents to provide consumers with standardized forms that contain the name of and contact information for the insurer so the consumer will have the information necessary to contact the insurer and requires the insurer to hold and maintain monetary collateral. However, DFS would like to be notified regarding a bail agent's failure to timely return collateral as it may reflect on that agent's competency and trustworthiness.

DFS did not make any changes in response to this comment.

Comment: The advocate coalition requested that in cases where bail agents are currently in possession of collateral exceeding 10% of the bail amount, DFS should require bail agents and insurers to return to consumers all collateral that violates the new "reasonable" standard.

Response: The proposed amendment cannot alter a contract into which the parties entered prior to the amendment being promulgated. As a result, DFS did not make any changes in response to this comment.

Comment: The advocate coalition requested that DFS work closely with the advocates to take action in the areas that DFS believes are outside the scope of this proposed amendment. This includes timeframes for release from custody; records collection; public reporting and accountability, including the adequacy and accessibility of public information; audits; limits on surrender; and enforcement of the law and regulations. The advocate coalition also commented that, given the historic and ongoing failures of compliance with DFS regulations and "unscrupulous activity" by persons in the bail industry, it is important that DFS conducts regular and thorough investigations of the bail industry and carries out proactive enforcement.

Response: DFS looks forward to working with all stakeholders to improve consumer protection and raise the standards of integrity in the bail industry. DFS did not make any changes to the revised amendment in response to this comment.

Comment: The advocate coalition stated that in DFS's Assessment, DFS refers to 10% as the price of a partially secured bond. The advocate coalition explained that it is actually the maximum rate of a partially secured bond and the rate may be set lower or a deposit may not be required at all.

Response: DFS appreciates the clarification. DFS did not make any changes to the revised amendment in response to this comment.

Comment: The advocate coalition stated that there is a typographical error in section 28.2(a), which strikes the subject from the first sentence.

Response: DFS amended the revised amendment to fix the typographical error.

Comment: The advocate coalition recommended that in section 28.9, DFS add "promptly" before "released."

Response: Premium is earned upon release of the principal. Therefore, DFS may not condition return of premium on the timeliness of that release. DFS did not make any changes to the revised amendment in response to this comment.

Comment: The agents' association stated that section 28.10, which requires that an agent secure the release of the principal, is designed to prevent the collection of courier fees and not to actually secure the release of the principal.

Response: This section is intended to prevent a bail agent from imposing fees on consumers for effectuating the release of principal (including, but not limited to, fees for courier services) and to effectuate a principal's prompt and actual release from custody.

DFS did not make any changes to the revised amendment in response to this comment.

Comment: The agents' association proposed that DFS permit the deduction from collateral of the fees permitted in section 28.8, specifically, "enforcement fees generated from return to court based on the issuance of a warrant, a warrant and forfeiture, and or the revocations of the bond by the indemnitor, the payment of the balance of any premium owed, and fee incurred for court ordered monitoring, any fees incurred for the filing of and granting of a remission of a forfeiture." The agents' association proposed that if the bond is revoked for any other reason listed in the contract, then fees may not be deducted from the collateral.

Response: As stated in the DFS Assessment, expenses and fees may not be deducted from collateral under any circumstances, including those listed in the comment. A bail agent may seek reimbursement for the out-of-pocket costs expressly permitted in section 28.8 but may not use the collateral as the source of those funds. The collateral is pledged to secure the bond, not to ensure payment for the bail agent or a third party.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Banking Division Assessments

I.D. No. DFS-47-19-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of Part 101 to Title 23 NYCRR.

Statutory authority: Banking Law, sections 10, 11, 14; Financial Services Law, sections 102, 201, 202, 206, 301 and 302

Subject: Banking Division Assessments.

Purpose: Set forth the basis for allocating costs and expenses attributable to the operation of the Banking Division for Financial Services Law assessments.

Text of proposed rule: BANKING DIVISION ASSESSMENTS

Pursuant to the Financial Services Law ("FSL"), the former New York State Banking Department and the former New York State Insurance Department were consolidated on October 3, 2011 into the Department of Financial Services ("Department").

Prior to the consolidation, assessments of institutions subject to the Banking Law ("Banking Law") were governed by former section 17 of the Banking Law. Effective October 3, 2011, assessments are governed solely by section 206 of the FSL.

FSL section 206 provides that all expenses (including, but not limited to, compensation, lease costs and other overhead costs) of the Department attributable to institutions subject to the Banking Law are to be charged to, and paid by, such regulated institutions ("Regulated Entities"). The Superintendent is authorized to assess Regulated Entities for its total costs attributable to such institutions in such proportions as the Superintendent shall deem just and reasonable.

This regulation sets forth the basis for allocating such expenses among Regulated Entities and the process for making such assessments.

§ 101.2 Definitions.

The following definitions apply in this Part:

(a) **Total Operating Cost** means (1) the sum of the total operating expenses of the Department that are solely attributable to its oversight of persons regulated under the Banking Law and (2) the proportion deemed just and reasonable by the Superintendent of the other operating expenses of the Department which under FSL section 206(a) may be assessed against persons regulated under the Banking Law and other persons regulated by the Department.

(b) **Industry Group** means the grouping to which a business entity

regulated under the Banking Law is assigned. The three Industry Groups are:

(1) The Depository Institutions Group, which consists of all banking organizations and foreign banking corporations licensed by the Department to maintain a branch, agency or representative office in this state;

(2) The Mortgage-Related Entities Group, which consists of all mortgage brokers, mortgage bankers and mortgage loan servicers; and

(3) The Licensed Financial Services Providers Group, which consists of all check cashers, budget planners, licensed lenders, sales finance companies, premium finance companies and money transmitters.

(c) Industry Group Operating Cost means the amount of the Total Operating Cost assessed to a particular Industry Group in any fiscal year. The amount is derived from the percentage of the total expenses for salaries, fringe benefits and indirect costs incurred for the examining, specialist and related personnel represented by such costs for the particular Industry Group.

(d) Industry Group Supervisory Component means the total of the Supervisory Components for all institutions in that Industry Group.

(e) Supervisory Component for an individual institution means the product of the average number of hours attributed to supervisory oversight by examiners and specialists of all institutions of a similar size and type, as determined by the Superintendent, in the applicable Industry Group, or the applicable sub-group, and the average hourly cost of the examiners and specialists assigned to the applicable Industry Group or sub-group.

(f) Industry Group Regulatory Component means the Industry Group Operating Cost for that group minus the Industry Group Supervisory Component and certain miscellaneous fees such as application fees.

(g) Industry Financial Basis means the measurement tool used to distribute the Industry Group Regulatory Component among individual institutions in an Industry Group. The Industry Financial Basis used for each Industry Group is as follows:

(1) For the Depository Institutions Group: total assets of all institutions in the group;

(2) For the Mortgage-Related Entities Group: total gross revenues from New York State operations, including servicing and secondary market revenues, for all institutions in the group; and

(3) For the Licensed Financial Services Providers Group: (i.) for budget planners, the number of New York customers; (ii.) for licensed lenders, the dollar amount of credit extensions in New York; (iii.) for check cashers, the dollar amount of checks cashed in New York; (iv.) for money transmitters, the dollar value of all New York transactions; (v.) for premium finance companies, the dollar value of loans originated in New York; and (vi.) for sales finance companies, the dollar value of credit extensions in New York.

(h) Financial Basis for an individual institution is that institution's portion of the measurement tool used in subdivision (g) of this section to develop the Industry Financial Basis. (For example, in the case of the Depository Institutions Group, an entity's Financial Basis would be its total assets.)

(i) Industry Group Regulatory Rate means the result of dividing the Industry Group Regulatory Component by the Industry Financial Basis.

(j) Regulatory Component for an individual institution is the product of the Financial Basis for the individual institution multiplied by the Industry Group Regulatory Rate for that institution.

§ 101.3 Billing and Assessment Process.

The New York State fiscal year begins April 1 and ends March 31 of the following calendar year. Each institution subject to assessment pursuant to this Part is billed five times for a fiscal year: four quarterly assessments (each approximately 25% of the anticipated annual amount) based on the Banking Division's estimated annual budget at the time of the billing, and a final assessment (or "true-up"), based on the Banking Division's actual expenses for the fiscal year. Any institution that is a Regulated Entity for any part of a quarter shall be assessed for the full quarter.

§ 101.4 Computation of Assessment.

The total annual assessment for an institution shall be the sum of its Supervisory Component and its Regulatory Component.

§ 101.5 Penalties/Enforcement Actions.

All Regulated Entities shall be subject to all applicable penalties, including late fees and interest, provided for by the Banking Law, the FSL, the State Finance law or other applicable laws. Enforcement actions for nonpayment could include suspension, revocation, expiration or termination of the entity's license or such other actions as the Superintendent may deem appropriate.

§ 101.6 Special Assessments.

(a) When the Superintendent shall determine that the expenses associated with a specific examination, investigation or review are best allocated solely to the individual institution or institutions subject to such examination or investigation, rather than to an Industry Group generally or any subgroup thereof, such expenses shall be billed separately as provided for in this subdivision. The time of each person associated with such examina-

tion or investigation shall be multiplied by the average costs of the examiners and specialists at their respective grade levels assigned to such examination or investigation, plus expenses for travel outside of New York, and the resulting amount shall be assessed separately to each such institution subject to such examination or investigation in such amounts as the Superintendent shall deem appropriate. Alternatively, if another entity or person is selected to perform an examination, investigation or review of an individual institution or institutions, the expenses associated with such examination, investigation and review shall be the amount of the contract for such services and such portion of the Department's administrative expenses associated with such contract as the Superintendent shall deem appropriate. The resulting amount shall be assessed separately to each such institution subject to such examination, investigation or investigation in such amounts as the Superintendent shall deem appropriate.

Such special assessments shall be billed within one hundred and eighty days after the calendar quarter within which such expenses were incurred. Such amounts shall be paid within thirty days of the date of such billing.

In making a determination to make a special assessment and to allocate such assessment between one or more institutions, the Superintendent shall include such factors as she or he shall deem appropriate, including, but not limited to: the significance of the examination to the conduct of business by a given Industry Group or institutions; the potential seriousness of any violations of law or regulation identified by, or under review in, such examination or investigation; the likelihood that such violations are common within an Industry Group; and the extent to which an institution attempted to cover up or failed to disclose the existence of such violations.

(b) The Superintendent may exempt any not-for-profit entity licensed by the Department from any assessments otherwise applicable to such entity when the Superintendent determines the public benefit warrants such exemption.

Text of proposed rule and any required statements and analyses may be obtained from: Eamon G. Rock, Esq., Department of Financial Services, One Commerce Plaza, Executive Office, Albany, NY 12257, (518) 474-4567, email: Eamon.Rock@dfs.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory authority: Section 102 of the Financial Services Law ("Financial Services Law" or "FSL"), declares that the purpose of the FSL is "to ensure the continued safety and soundness of New York's banking, insurance and financial services industries, as well as the prudent conduct of the providers of financial products and services, through responsible regulation and supervision."

Pursuant to FSL Section 201, the Department of Financial Services ("Department") has broad authority to take such actions as are necessary to ensure the continued solvency, safety, soundness and prudent conduct of the providers of financial products and services; to protect users of financial products and services from financially impaired or insolvent providers of such services; and to eliminate financial fraud, other criminal abuse and unethical conduct in the industry.

FSL Section 202 creates the office of the Superintendent of Financial Services ("Superintendent") and confers on the Superintendent all "the rights, powers, and duties in connection with financial services and protection in this state, expressed or reasonably implied by [the FSL] or any other applicable law of this state."

FSL Section 301 gives the Superintendent broad power "to protect users of financial products and services." In addition, FSL Section 302 provides the Superintendent with equally broad authority to adopt regulations relating to "financial products and services," which are broadly defined in the Financial Services Law to mean essentially any product or service offered by a Department-regulated entity. Accordingly, the Superintendent has ample authority to adopt the proposed rule.

Section 10 of the Banking Law ("Banking Law" or "BL") sets forth a declaration of policy, including that banking institutions will be regulated in a manner to insure safe and sound conduct and maintain public confidence. And BL Section 11 sets forth that the Department is charged with the execution of the laws relating to entities regulated under the Banking Law.

BL Section 14 references, without limitation, the policy of BL Section 10 and sets forth certain powers of the Superintendent under the Banking Law, including the power to "make, alter and amend orders, rules and regulations not inconsistent with law" and, under certain enumerated circumstances, to "make variations from the requirements" of the Banking Law, provided such variations are "in harmony with the spirit of the law."

Pursuant to the FSL, the Department was formed by the consolidation,

effective October 3, 2011, of the New York State Banking Department ("Banking Department") and the New York State Insurance Department. Prior to the consolidation, assessments of institutions subject to the BL were governed by Section 17 of the BL; effective on October 3, 2011, assessments are now governed by Section 206 of the Financial Services Law.

Section 206 of the FSL provides that all expenses (compensation, lease costs and other overhead) of the Department in connection with the regulation and supervision of any person or entity licensed, registered, incorporated or otherwise formed pursuant to the BL are to be charged to, and paid by, the regulated institutions subject to the supervision of the Banking Division of the Department (the "Banking Division"). The Superintendent is authorized to assess regulated institutions in the Banking Division in such proportions as the Superintendent shall deem just and reasonable.

In response to a court ruling, *In the Matter of Homestead Funding Corporation v. State of New York Banking Department et al.*, 944 N.Y.S.2d 649 (2012) ("Homestead"), that held that the Department should adopt changes to its assessment methodology for mortgage bankers through a formal assessment rule pursuant to the requirements of the State Administrative Procedures Act ("SAPA"), the Department has determined to adopt this new regulation setting forth the assessment methodology applicable to all entities regulated by the Banking Division for fiscal years beginning with fiscal year 2011.

2. **Legislative objectives:** The FSL makes the industries regulated by the Banking Division of the new Department responsible for all the costs and expenses of their regulation by the State. The assessments have covered all direct and indirect expenses of the Banking Division, which are activities that relate to the conduct of banking business and the regulatory concerns of the Department, including all salary expenses, fringe benefits, rental and other office expenses and all miscellaneous and overhead costs such as human resource operations, legal and technology costs.

This reflects a long-standing State policy that the regulated industries are the appropriate parties to pay for their supervision in light of the financial benefits it provides to them to engage in banking and other regulated businesses in New York. The statute specifically provides that these costs are to be allocated among such institutions in the proportions deemed just and reasonable by the Superintendent.

This type of allocation had been the practice of the former Banking Department for many decades.

3. **Needs and benefits:** In addition to the 229 state and international banks licensed by New York, with assets of approximately \$2.5 trillion, DFS also supervises approximately 600 non-bank financial services firms, with assets of approximately \$1 trillion. These entities include: licensed check cashers; licensed money transmitters; sales finance companies; licensed lenders; premium finance companies; budget planners; mortgage bankers and brokers; mortgage loan servicers; and mortgage loan originators.

Collectively, the regulated entities represent a spectrum, from some of the largest financial institutions in the country to the smallest, neighborhood-based financial services providers. Their services are vital to the economic health of New York, and their supervision is critical to ensuring that these services are provided in a fair, economical and safe manner.

This supervision requires that the Banking Division maintain a core of trained examiners, plus facilities and systems. As noted above, these costs are, by statute, to be paid by all regulated entities in the proportions deemed just and reasonable by the Superintendent. The new regulation is intended to formally set forth the methodology utilized by the Banking Division for allocating these costs.

4. **Costs:** The proposed regulation would not increase the total costs assessed to the regulated industries or alter the allocation of regulatory costs between the various industries regulated by the Banking Division. Indeed, the proposed regulation would adopt the methodology that the assessments have been subject to under the emergency promulgations since 2012. The proposal would add a section on special assessments where it is necessary for a regulated party to bear the costs of its own examination rather than distributing that cost amongst the industry. This requirement will not pose any additional compliance costs for regulated parties; it merely provides the ability to reallocate the assessed cost of an examination from the industry as a whole to the individual regulated party subject to the relevant examination.

5. **Local government mandates:** None.

6. **Paperwork:** The regulation does not change the process utilized by the Banking Division to determine and collect assessments, which are the paperwork concerns that have impact upon the regulated entities.

7. **Duplication:** The regulation does not duplicate, overlap or conflict with any other regulations. To extend an emergency regulation covering this topic is currently in effect, this proposed regulation will, upon adoption, take the place of the emergency regulation and thus will not duplicate, overlap or conflict therewith.

8. **Alternatives:** The purpose of the regulation is to formally set forth the process employed by the Department to carry out the statutory mandate to assess and collect the operating costs of the Banking Division from regulated entities. In light of *Homestead*, the Department believes that promulgating this formal regulation is necessary in order to allow it to continue to assess all of its regulated institutions in the manner deemed most appropriate by the Superintendent. Failing to formalize the Banking Division's allocation methodology would potentially leave the assessment process open to further judicial challenges. Thus, the Department has determined there are no viable alternatives to promulgating this regulation.

9. **Federal standards:** Not applicable.

10. **Compliance schedule:** The proposed regulation has been in effect as consistent adoptions of emergency regulations since August 22, 2012 and have been applicable since the fiscal year starting April 1, 2011. Further, the regulation dictates the mechanism by which the Department calculates assessments, and as such, does not present any requirement for regulated entities to come into compliance.

Regulatory Flexibility Analysis

1. **Effect of rule:** The regulation does not have any impact on local governments. The regulation simply codifies the methodology used by the Banking Division of the Department of Financial Services ("Department") to assess all entities regulated by it, including those that are small businesses. The regulation does not increase the total costs assessed to the regulated industries or alter the allocation of regulatory costs between the various industries regulated by the Department's Banking Division ("Banking Division").

Indeed, the only change from the allocation methodology used by the Banking Department in the previous state fiscal years is that the regulatory costs assessed to the mortgage banking industry will be divided among the entities in that group on a basis that includes income derived from secondary market and servicing activities. The Department believes that this is a more appropriate basis for allocating the costs associated with supervising mortgage banking entities. It is expected that the effect of this change will be that larger members of the mortgage banking industry will pay an increased proportion of the total cost of regulating that industry, while the relative assessments paid by smaller industry members will be reduced.

2. **Compliance requirements:** The regulation does not change existing compliance requirements. Section 206 of the Financial Services Law provides that all expenses (compensation, lease costs and other overhead) of the Department in connection with the regulation and supervision of any person or entity licensed, registered, incorporated or otherwise formed pursuant to the Banking Law are to be charged to, and paid by, the regulated institutions subject to the supervision of the Banking Division. Under both statutes, the Superintendent is authorized to assess regulated institutions in the Banking Division in such proportions as the Superintendent shall deem just and reasonable.

3. **Professional services:** None.

4. **Compliance costs:** All regulated institutions are currently subject to assessment by the Banking Division. The regulation simply formalizes the Banking Division's assessment methodology. Further, the regulation dictates the mechanism by which the Department calculates assessments, and as such, does not present any requirement for regulated entities to come into compliance. With the addition of the special assessment provision the cost of the assessments to an individual regulated party may be affected.

5. **Economic and technological feasibility:** All regulated institutions are currently subject to the Banking Division's assessment requirements. The formalization of the Banking Division's assessment methodology in a regulation will not impose any additional economic or technological burden on regulated entities that are small businesses.

6. **Minimizing adverse impact:** The proposed regulation will not affect the total amount of the assessment. With the addition of the special assessment, which will allow the cost of high cost examinations to be borne by the entity being examined, may slightly reduce the proportion of assessments that is paid by entities that are small businesses.

7. **Small business and local government participation:** This regulation does not impact local governments.

This regulation simply codifies the methodology that the Banking Division uses for determining the just and reasonable proportion of the Banking Division's costs to be charged to and paid by each regulated institution, including regulated institutions that are small businesses. The overall methodology was adopted in 2005 after extensive discussion with regulated entities and industry associations representing groups of regulated institutions, including those that are small businesses.

Thereafter, the Banking Department applied assessments against all entities subject to its supervision. In addition, for fiscal 2010, the Banking Department changed its overall methodology slightly with respect to assessments against the mortgage banking industry to include income derived from secondary market and servicing activities. Litigation was commenced challenging this latter change, and in a recent decision, in the

Matter of Homestead Funding Corporation v. State of New York Banking Department et al., 944 N.Y.S. 2d 649 (2012), the court determined that the Department should adopt a change to its assessment methodology for mortgage bankers through a formal assessment rule promulgated pursuant to the requirements of the State Administrative Procedures Act. The challenged change in methodology had the effect of increasing the proportion of assessments against the mortgage banking industry paid by its larger members, while reducing the assessments paid by smaller participants, including those that are small businesses.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: There are entities regulated by the New York State Department of Financial Services (formerly the Banking Department) located in all areas of the State, including rural areas. However, this rule simply codifies the methodology currently used by the Department to assess all entities regulated by it. The regulation does not alter that methodology, and thus it does not change the cost of assessments on regulated entities, including regulated entities located in rural areas.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The regulation would not change the current compliance requirements associated with the assessment process.

3. Costs: While the regulation formalizes in a final form the assessment process, it does not change the amounts assessed to regulated entities as a whole, including those located in rural areas. The special assessment provisions apply equally to regulated entities across the industry, including those in rural areas.

4. Minimizing adverse impact: The regulation does not increase the total amount assessed to regulated entities by the Department. It simply codifies the methodology that the Superintendent has chosen for determining the just and reasonable proportion of the Department's costs to be charged to and paid by each regulated institution.

5. Rural area participation: This rule simply codifies the methodology that the Department currently uses for determining the just and reasonable proportion of the Department's costs to be charged to and paid by each regulated institution, including regulated institutions located in rural areas. The overall methodology was adopted in 2005 after extensive discussion with regulated entities and industry associations representing groups of regulated institutions, including those located in rural areas. It followed the loss of several major banking institutions that had paid significant portions of the former Banking Department's assessments.

Thereafter, the Department applied assessments against all entities subject to its regulation. In addition, for fiscal 2010, the Department changed this overall methodology slightly with respect to assessments against the mortgage banking industry to include income derived from secondary market income and servicing income. This latter change was challenged by a mortgage banker, and in early May, the Appellate Division determined that the latter change should have been made in conformity with the State Administrative Procedures Act. The challenged part of the methodology had the effect of increasing the proportion of assessments against the mortgage banking industry paid by its larger members, while reducing the assessments paid by smaller participants.

Job Impact Statement

The regulation is not expected to have an adverse effect on jobs and employment opportunities. All institutions regulated by the Banking Division of the Department of Financial Services ("Department") are currently subject to assessment by the Department. The regulation simply formalizes the assessment methodology used by the Department's Banking Division. This methodology has been incorporated into emergency rulemaking applicable since the fiscal year starting April 1, 2011. Beyond the emergency rule making, the proposal includes an additional special assessment provision that allows certain costs of examinations to be borne by the entity examined and permits the Superintendent to exempt not-for-profit entities from assessments if the public benefit warrants an exemption. If anything, these additional provisions, especially the exemption for not-for-profits, can be expected to have a positive impact on employment.

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Hospital Medical Staff - Limited Permit Holders

I.D. No. HLT-47-19-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 405.4 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2803

Subject: Hospital Medical Staff - Limited Permit Holders.

Purpose: To repeal extra years of training required for limited permit holders to work in New York State hospitals.

Text of proposed rule: Paragraph (2) of subdivision (g) of section 405.4 is amended to read as follows:

(2) physicians who possess limited permits to practice medicine issued by the New York State Education Department pursuant to section 6525 of the State Education Law if such physicians are under the supervision of a physician licensed and currently registered to practice medicine in the State of New York. [and if the physicians possessing limited permits are:

(i) graduates of medical school offering a medical program accredited by the Liaison Committee on Medical Education or the American Osteopathic Association, or registered with the State Education Department or accredited by an accrediting organization acceptable to the State Education Department, and have satisfactorily completed one year of graduate medical education in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, their predecessors or successors or an equivalent accrediting agency acceptable to the State Education Department;

(ii) graduates of a foreign medical school and have satisfactorily completed three years of graduate medical education in a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, their predecessors or successors or an equivalent accrediting agency acceptable to the State Education Department; or

(iii) graduates of a foreign medical school who have satisfactorily completed three years in a postgraduate training program and who are receiving advanced training as part of an official exchange visitor program approved by the United States Information Agency and the Educational Commission for Foreign Medical Graduates (ECFMG);]

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

Statutory Authority:

Public Health Law (PHL) § 2803 authorizes the Public Health and Health Planning Council (PHHPC) to adopt and amend rules and regulations, subject to the approval of the Commissioner of Health (Commissioner), to implement the purposes and provisions of PHL Article 28 and to establish minimum standards governing the operation of health care facilities.

Legislative Objectives:

The legislative objectives of PHL Article 28 include the protection of the health of the residents of the State by promoting the efficient provision and proper utilization of high quality health services at a reasonable cost.

Needs and Benefits:

10 NYCRR § 405.4(g)(2) allows an unlicensed physician to provide medical services in a hospital under a limited permit to practice medicine under Education Law § 6525 when the State Education Department (SED) determines that the applicant meets SED criteria for issuance of a limited permit and appropriate levels of supervision and oversight are in place. Section 405.4(g)(2) requires additional years of training, beyond what is required for a limited permit under Education Law § 6525. This proposed regulation would eliminate the extra years of training required for limited permittees to work in hospitals.

New York State is experiencing a shortage of licensed physicians in all areas of the state. Limited permit holders are fully trained physicians, often graduates of international medical schools, that are working in various health care settings until full licensure requirements can be met. It is typically the U.S. citizenship requirement that prevents many limited permit holders from initially obtaining full licensure.

Currently, section 405.4(g)(2) imposes additional years of training for limited permit holders, specifically one year for domestic medical graduates and three years for international (foreign) medical graduates, as a condition of working in a New York State hospital. This requirement was originally intended to ensure that international students' educations were equivalent to those of physicians educated in the United States. SED has confirmed the understanding of the New York State Department of Health that any educational disparities are minimal today due to medical school

accreditation standards. Nevertheless, under the current regulations, hospitals must require the limited permit holders to have the additional years of training. As a result, hospitals hiring doctors to meet patient needs often must turn away otherwise qualified applicants to maintain compliance with the regulation. These candidates, if unable to work in New York State hospitals, may seek employment in other states or in other types of health care settings where the extra years of experience are not required.

SED already considers training and experience before approving and issuing limited permits; however, SED does not screen candidates for their eligibility to work in hospitals. In addition, limited permit holders working in other settings in New York State, such as nursing homes and psychiatric hospitals, are not required to have these additional years of training. As such, there is inconsistency in the standards required of limited permit holders with equivalent background and training, making limited permit holders less likely to be utilized in hospitals. Given the shortage of licensed physicians to cover vital hospital services, this proposed amendment will eliminate a barrier to limited permit holders practicing in hospitals.

Finally, since all limited permit holders are subject to supervision and oversight by a licensed physician, their practice within the hospital will be monitored and safe.

Costs:

Costs to Private Regulated Parties:

This proposal will not result in increased costs to regulated parties.

Costs to Local Government:

This regulation amendment will not impact local governments unless they operate a general hospital. In any event, this proposal will not increase costs for local governments.

Costs to the Department of Health:

The proposed regulatory changes will not result in any additional operational costs to the Department of Health.

Costs to Other State Agencies:

The proposed regulatory changes will not result in any additional costs to other state agencies.

Local Government Mandates:

The proposed regulatory changes will not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

The proposed regulatory changes will not create any additional paperwork.

Duplication:

There are no relevant State regulations which duplicate, overlap or conflict with the proposed regulatory changes.

Alternatives:

The alternative would be to take no action and have hospitals continue to screen limited permit holders for additional years of training as a condition of employment.

Federal Standards:

The proposed regulatory changes do not duplicate or conflict with any federal regulations.

Compliance Schedule:

The regulations will be effective upon publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for these amendments is not being submitted because the proposed amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

Job Impact Statement

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. No adverse impact on jobs and employment opportunities is expected as a result of these proposed regulations.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Empire Clinical Research Investigator Program (ECRIP)

I.D. No. HLT-47-19-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 86-1.46 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2807-m(5-a)(b)

Subject: Empire Clinical Research Investigator Program (ECRIP).

Purpose: To expand the types of and change the time frames for past research grants that qualify staff to supervise the ECRIP project.

Text of proposed rule: Subparagraphs (i), (viii) and (ix) of paragraph (2) and paragraphs (3) and (14) of subdivision (a) of section 86-1.46 are amended to read as follows:

(2) Clinical research plan means a plan submitted by a consortium or teaching general hospital for a research fellow position which demonstrates, in a form to be provided by the commissioner, the following:

(i) experience the sponsor-mentor [,] and [for center distributions the] director [, has] have in clinical research and the medical field of the study;

* * *

(viii) [for center distributions,] *after awards are made*, a budget including matching funds; and

(ix) any other information required by the commissioner to implement [subparagraph (i) of] paragraph (b) of subdivision five-a of section 2807-m of the public health law. The clinical research plan submitted in accordance with this paragraph may be reviewed by the commissioner in consultation with experts outside the department of health.

* * *

(3) Clinical research *fellow* position means a post-graduate residency position which:

(i) shall not be required in order for the research fellow to complete a graduate medical education program;

(ii) may be reimbursed by other sources but only for costs in excess of the funding distributed in accordance with [subparagraph (i) of] paragraph (b) of subdivision five-a of section 2807-m of the public health law;

(iii) shall exceed the minimum standards that are required by the residency review committee in the specialty the research fellow has trained or is currently training;

(iv) [shall not be previously funded by the teaching general hospital or supported by another funding source at the teaching general hospital in the past three years from the date the clinical research plan is submitted to the commissioner;

(v) may supplement an existing research project;

[(vi)] (v) shall be equivalent to a full-time position comprising of no less than 35 hours per week;

[(vii)] (vi) shall provide, or be filled by a research fellow who has formalized instruction in clinical research, including biostatistics, clinical trial design, grant writing and research ethics; [and further provides that:

(a) for individual distributions, shall be supervised by a sponsor-mentor who must have been a principal investigator, co-principal investigator or co-investigator of a federal research grant in the past five years from the date the clinical research plan is submitted to the commissioner; or (b) for center distributions,] (vii) shall be supervised by a sponsor-mentor who is a member of a research team directed by a [current] researcher who must have been a principal investigator or co-principal investigator [for an active grant from the National Institutes of Health and be supervised by a sponsor-mentor who must have been a principal investigator or co-principal investigator of a federal research grant within one year from the date the clinical research plan is submitted to the commissioner] of a federal research grant or a Patient-Centered Outcomes Research Institute grant, excluding a grant for a conference or for commercial product development, in the two years preceding the date the clinical research plan is submitted to the commissioner; and

(viii) shall be filled by a research fellow who is:

(a) enrolled or has completed a graduate medical education program, as defined in paragraph (11) of this subdivision;

(b) a United States or Canadian citizen, national, or permanent resident of the United States or Canada; and

(c) a graduate of a medical, dental or podiatric school located in

New York State, a graduate or resident in a graduate medical education program, as defined in paragraph (11) of this subdivision, where the sponsoring institution, as defined in paragraph (16) of this subdivision, is located in New York State, or resides in New York State at the time the clinical research plan is submitted to the commissioner.

* * *

(14) Research theme means a clinical research topic that represents a strategically important growth area for the consortium or teaching general hospital. Such theme shall be in a field of study suitable to train a resident or residents and cannot be one that [currently] has [Federal research] funding in the form of one or more *federal center-type grants, such as a National Institutes of Health program project grant, specialized center grant, or research program grant or cooperative agreement at the consortium or teaching general hospital.*

Subdivision (b) of section 86-1.46 is amended to read as follows:

(b) Within funding amounts set forth in paragraph (b) of subdivision (5-a) of section 2807-m of the public health law and appropriated to ECRIP, and with the objective of securing federal funding for biomedical research, training research fellows, recruiting national leaders as faculty to act as mentors, and training residents and fellows in biomedical research skills, the following distribution methodology shall apply:

(1) Distributions shall [first be made to consortia and teaching general hospitals to fund individual ECRIP projects in accordance with subparagraph (i) of this paragraph with remaining funds being] *be divided equally [to fund center ECRIP distributions in accordance with subparagraph (ii) of this paragraph as follows:*

(i) Individual distributions shall be made in the amount of \$75,000 per research fellow position for up to two such positions within a two year period subject to a funding cap of \$150,000. Consortia and teaching general hospitals may fund such positions in consecutive or concurrent years.

(ii) Center distributions shall be made by dividing the remaining funds equally] amongst all consortia and teaching general hospitals eligible for such distributions; provided that the consortia and teaching general hospitals are required to fund and train one research fellow position per *each* \$100,000 received and shall provide a \$100,000 match in each distribution period regardless of the dollar amount distributed pursuant to this subparagraph. If a consortium or teaching general hospital receives a distribution of \$400,000 or more, excluding matching funds, in any distribution period then it may implement a secondary research theme in addition to the primary research theme *provided both projects demonstrate all requirements.* Distributions shall be made in increments determined by the commissioner.

(2) In order to be eligible for [center] distributions pursuant to [subparagraph (1)(ii)] this subdivision, each consortium and teaching general hospital shall provide [a letter of intent to the commissioner indicating a primary research theme and may indicate a secondary research theme and a list of institutions collaborating in the clinical research plan. In addition, in order to be eligible for individual and center distributions pursuant to this section, each consortium and teaching general hospital shall provide] to the commissioner by [July first of each distribution period] *a date specified by the commissioner,* the following data and information on a hospital-specific basis. Such data and information shall be certified as to accuracy and completeness by the chief executive officer, chief financial officer or chair of the consortium governing body of each consortium or teaching general hospital and shall be maintained by each consortium and teaching general hospital for five years from the date of submission. Such data and information shall only be submitted by teaching general hospitals currently receiving Medicaid reimbursement for direct or indirect graduate medical education and such submission is limited to [either an individual] *a single distribution per operating certificate issued by the commissioner pursuant to subparagraph (1)(i) this subdivision [or a center distribution pursuant to subparagraph (1)(ii) of this subdivision], provided however, that a teaching general hospital with two or more campuses where one campus is the major teaching affiliate with one medical school and the other campus is the major teaching affiliate with another medical school each of which provides clinical services and research facilities at their respective campuses associated with the medical school, shall be eligible for a separate ECRIP distribution at each campus.*

(i) For each research fellow position, information on the type, scope, training objectives, institutional support, clinical research experience of the sponsor-mentor, the name of a principal contact person responsible for tracking the career development of researchers placed in clinical research positions, as defined in paragraph (a)(3) of this section, and who is authorized to certify to the commissioner that all the requirements of the clinical research training objectives set forth in this subparagraph shall be met.

(ii) General information on all institutions collaborating on the clinical research plan, including each institution's role in the research and specific budget information.

(iii) Information for each sponsor/mentor, including experience in mentoring and current and pending federal research funding distribution.

(iv) Tracking information for all current and past research fellows, including but not limited to: (a) background information; (b) employment history; (c) research status; (d) current research activities; (e) research grants and support; (f) publications and presentations; and (g) any other information necessary to track and obtain outcome data for all research fellows.

(v) [For center distributions pursuant to subparagraph (1)(ii) of this subdivision, a] A description of the primary research theme and secondary research theme, if applicable, and how such themes build upon the existing research activities within the consortium or teaching general hospital.

(vi) [For center distributions pursuant to subparagraph (1)(ii) of this subdivision, a] A description of relevant federal research funding opportunities (if any) and how the research team plans to target such funding.

(vii) [For center distributions pursuant to subparagraph (1)(ii) of this subdivision, identification] *Identification of the research team director who must [be] have been a principal investigator or co-principal investigator of [an active National Institutes of Health] a federal research or a Patient-Centered Outcomes Research Institute grant within the two years prior to the submission of data pursuant to this subparagraph.*

(viii) Identification of all sponsor/mentors who [: for center distributions pursuant to subparagraph (1)(ii) of this subdivision, must have been principal investigators or co-principal investigators of a federal research grant within one year of submission of data pursuant to this subparagraph; and, for individual distributions pursuant to subparagraph (1)(i) of this subdivision, must have been principal investigators, co-principal investigators or co-investigators of a federal research grant within five years of submission of data pursuant to this subparagraph] *shall participate in the project.*

(ix) [For center distributions pursuant to subparagraph (1)(ii) of this subdivision, a] A letter from the chief executive officer, chief financial officer or chair of the consortium governing body of each consortium or teaching general hospital attesting to the \$100,000 match required pursuant to subparagraph (1)(ii) of this subdivision.

(x) Information on collaborations with entities located within New York State, including but not limited to, teaching general hospitals, universities, local health departments, government laboratories, and federally qualified health centers if applicable.

(xi) For each research fellow position, information on the name, citizenship status, medical education and training, and medical license number of the research fellow, if applicable, shall be provided by December 31st of the calendar year in which the distribution is made *provided that if a change is requested in relation to the individual holding such position after that date, such information shall be submitted to the commissioner for approval, together with the reasons for such change.*

(xii) Information on the status of the clinical research plan, accomplishments, changes in research activities, progress, and performance of the research fellow shall be provided upon completion of one-half of the award term.

(xiii) A final report detailing training experiences, accomplishments, activities and performance of the research fellow, and data, methods, results and analyses of the clinical research plan shall be provided three months after the research fellow position ends.

(xiv) Any other data or information required by the commissioner to implement this section.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

Statutory Authority:

Public Health Law (PHL) § 2807-m(5-a) (b)(H) authorizes the Commissioner of Health to issue regulations pertaining to the Empire Clinical Research Investigator Program (ECRIP) to address matters such as the qualifications of researchers and the methodology for distribution of ECRIP funds.

Legislative Objectives:

ECRIP provides funding to eligible institutions to train physicians in clinical research and support projects to advance biomedical research in New York State. Specifically, as set forth in PHL § 2807-m(5-a)(b)(H)(1), the objective of ECRIP is to secure federal funding for biomedical research, train clinical researchers, recruit national leaders as faculty to act as mentors, and train fellows in biomedical research skills.

Current Requirements:

Pursuant to PHL § 2807-m(5-a)(b)(H), 10 NYCRR § 86-1.46 defines key terms which set forth parameters for ECRIP projects and researchers and establishes a methodology for the distribution of funds to institutions that receive ECRIP awards. As set forth in 10 NYCRR § 86-1.46(b)(2), institutions that are eligible for ECRIP awards are: (1) teaching hospitals that receive Medicaid reimbursement for direct or indirect graduate medical education; or (2) consortia comprised of general hospitals that receive Medicaid reimbursement for graduate medical education, which may include other providers and medical schools.

These institutions (collectively referenced herein as “teaching hospitals”) may submit a proposed clinical research plan, also known as an abstract, to the Department of Health. Abstracts that meet all program requirements receive either an Individual Award or a Center Award, which are two-year awards, subject to available funding. Individual Awards are available to teaching hospitals which are capable of training clinician researchers through one-on-one mentoring. Center Awards, available to teaching hospitals with advanced research capacity, are intended to promote the development of clinician researchers while also providing seed funding for other grants by requiring teaching hospitals to form research teams around themes. Hospitals are not eligible to apply for both an Individual Award and a Center Award during the same ECRIP cycle.

As set forth in 10 NYCRR § 86-1.46(b)(1), Individual Awards are funded at \$75,000 per year to support a minimum of one fellow, provided that only one Individual Award can be made per hospital. Institutions are expected to provide whatever additional funding and resources may be needed to support and train the research fellows. Section 86-1.46(b)(1) provides that after Individual Awards are allocated, the remaining amount appropriated is provided for Center Awards by equally dividing this amount among all qualified Center abstracts who meet the program criteria.

Teaching hospitals applying for Center Awards may submit a primary abstract and also may submit a secondary abstract. If there is sufficient funding available to provide at least \$400,000 for every qualifying primary abstract, then the teaching hospital receives a Center Award that is to be split between the primary and secondary projects. Each institution receiving a Center Award must train at least one ECRIP fellow for every \$100,000 in annual State funding it receives, and further must commit \$100,000 in matching funds each year.

Section 86-1.46(a)(3), which defines “clinical research position,” provides that research fellows who carry out ECRIP projects must be supervised by a faculty member known as a sponsor-mentor. For an Individual Award, the sponsor-mentor must have been a principal investigator, co-principal investigator or co-investigator of a federal research grant within the last five years prior to submission of an ECRIP abstract. See 10 NYCRR § 86-1.46(a)(3)(vii)(a). For a Center Award, the fellow must be a member of a research team directed by a principal investigator or co-principal investigator currently working on an active grant from the National Institutes of Health (NIH), and must be supervised by a sponsor-mentor who has been a principal investigator or co-principal investigator within the year prior to submission of an abstract. See 10 NYCRR § 86-1.46(a)(3)(vii)(b). In addition, the regulation provides that fellows cannot have been funded by the teaching hospital or supported by another funding source at the teaching hospital within the past three years. See 10 NYCRR § 86-1.46(a)(3)(iv).

Section 86-1.46(b)(2) requires recipients of the two-year ECRIP awards to submit certain information to the Department, generally by July 1 of each year for which funds are distributed, related to ECRIP projects and the personnel working on such projects. In particular, 10 NYCRR § 86-1.46(b)(2)(vii) requires a Center Award recipient to identify the research team director and 10 NYCRR § 86-1.46(b)(2)(viii) requires Individual and Center Award recipients to identify sponsor-mentors. Section 86-1.46(b)(2)(xi) requires that information about individual research fellows supported by ECRIP funding be submitted each year by December 31.

Needs and Benefits:

This proposal will make five changes to 10 NYCRR § 86-1.46. First, since the regulation was first promulgated, there has been an expansion of the types of research opportunities that are available at the national level. While the NIH historically has been and continues to be the primary source of federal biomedical research funding, other federal agencies offer grants that provide valuable research experience. Moreover, grants are now available through the Patient-Centered Outcomes Research Institute (PCORI), a non-profit corporation established by the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal

Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (collectively ACA). PCORI, charged with setting national research priorities and making research grants to support such priorities, receives funding from various federal sources for these purposes but is not a federal agency. See ACA, Title VI, Subtitle D, section 6301.

It is important to clarify, however, that grants for conferences or for commercial product development should not serve as qualifying research experience. These types of research activities are not as closely aligned to the purposes of ECRIP, which rely on experienced researchers to serve as mentors to train fellows in carrying out biomedical research. Therefore, this proposal will amend 10 NYCRR § 86-1.46(a)(3) to include federal research grants other than those provided by the NIH as qualifying grants for research team directors and sponsor-mentors working on Center Awards, include PCORI grants as qualifying grants for research team directors working on Center awards, and exclude grants for conferences or commercial product development.

Second, the requirement that the project director currently have an active grant from the NIH unnecessarily limits the pool of eligible faculty since it can take time for faculty to identify, apply and be awarded new research funding after existing grants conclude. Therefore, this proposal will amend 10 NYCRR § 86-1.46(a)(3) to revise the period for qualifying grants from a current active grant to a grant within the past two years. This proposal further will make conforming changes to 10 NYCRR § 86-1.46(b)(2)(vii), requiring submission of information about the research team director, and 10 NYCRR § 86-1.46(b)(2)(viii), requiring submission of information about sponsor-mentors, to reflect the foregoing changes in type and duration of experience.

Third, as indicated, the current version of the regulation also provides that fellows funded under proposed projects cannot have been previously funded by the teaching hospital within the past three years. While this provision was meant to ensure that ECRIP funds supplemented rather than supplanted other hospital spending on research, it has inadvertently prevented residents currently employed by the teaching hospital from remaining at that hospital to participate in an ECRIP project. Accordingly, this proposal will amend 10 NYCRR § 86-1.46(a)(3)(iv) to eliminate that restriction.

Fourth, 10 NYCRR § 86-1.46(b)(2)(xi) currently provides for recipients of two-year ECRIP awards to provide the Department with information about individual research fellows each year by December 31. Because the program is designed to train research fellows, there is a general expectation that a fellow who begins a training period will complete it. However, there may be legitimate reasons why a fellow cannot do so. Therefore, this proposal will amend the regulation to require that the Department be notified of and approve any subsequent changes in the individual holding a research fellow position. Such request must include the reason for such change, enhancing the Department’s oversight of the program.

Finally, Individual awards are eliminated allowing ECRIP to focus on larger Center projects in consortia and teaching hospitals in order to promote greater collaboration among research fellows.

Overall, these changes will expand the type of research experience that mentoring researchers bring to ECRIP projects and promote the high quality of research projects submitted and approved under the program.

Costs:

Costs to Private Regulated Parties:

Teaching hospitals are not required to request ECRIP funding, and the clarifications made by the proposed regulatory changes will not substantially alter the way in which abstracts are submitted. Therefore, the proposed regulatory amendments would not create any mandatory burdens or costs to regulated parties.

Costs to Local Government:

The proposed regulatory amendments will not impose any costs on local government, except to the extent that a local government operates a teaching hospital that chooses to request ECRIP funding. In such case, the analysis set forth above regarding costs to private regulated parties would apply.

Costs to the Department of Health:

The proposed regulatory changes will not result in any additional costs to the Department.

Costs to Other State Agencies:

The proposed regulations will not result in any costs to other state agencies.

Local Government Mandates:

The proposed regulations will not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

Paperwork is required for the submission of ECRIP abstracts. While the proposed regulatory changes alter some of the criteria pertaining to ECRIP eligibility, these changes will not result in any additional paperwork.

Duplication:

There are no relevant State regulations which duplicate, overlap or conflict with the proposed regulation.

Alternatives:

An alternative to the proposed regulatory changes would have been to leave the existing language as set forth in the current regulation. However, this would have precluded addressing the issues outlined in the Needs and Benefits section.

Federal Standards:

The proposed regulations do not duplicate or conflict with any federal regulations.

Compliance Schedule:

The regulations will be effective upon publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act because the proposed rule will not have a substantial adverse impact on small businesses or local governments. ECRIP awards are made only to teaching hospitals that voluntarily submit an abstract to the New York State Department of Health and none of the teaching hospitals are small businesses. Further, for local governments that operate teaching hospitals that voluntarily submit abstracts in compliance with the requirements of the proposed regulations, the financial and programmatic benefits far exceed the reporting requirements.

Rural Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act because the proposed amendments will not impose an adverse impact on facilities in rural areas, and will not impose reporting, record keeping or other compliance requirements on most facilities in rural areas. For any teaching hospital located in a rural area that voluntarily submits an abstract to the New York State Department of Health in compliance with the requirements of the proposed regulations, the financial and programmatic benefits far exceed the reporting requirements.

Job Impact Statement

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act because the proposed regulations will not have a substantial adverse impact on jobs and employment opportunities. In fact, the proposed regulations will result in an increase in the number of jobs and employment opportunities in teaching hospitals that submit an abstract to the New York State Department of Health and receive an ECRIP award. The proposed regulations require teaching hospitals that receive an ECRIP award to hire a full-time physician researcher fellow(s) to train in clinical research projects. In addition, ECRIP funding may be used to support faculty to mentor the fellow(s) and other administrative staff to support the training project.

Long Island Power Authority

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

VDER, Net Metering, and Community Distributed Generation

I.D. No. LPA-47-19-00017-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Long Island Power Authority proposes to modify its community distributed generation, VDER, and net energy metering tariffs, to implement adjustments for high capacity factor and non-renewable resources and bill pledge options for low income customers.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: VDER, net metering, and community distributed generation.

Purpose: To update the Authority's tariff for consistency with the Public Service Commission, Department of Public Service, and CLCPA.

Substance of proposed rule: LIPA Staff proposes to modify the Tariff to implement a resource capacity-factor adjustment to the Value of Distributed Energy Resources ("VDER") Community Credit; to implement a low income bill discount pledge program for community distributed generation; to make non-renewable resources ineligible for the VDER Environmental Credit; and to make new non-renewable resources ineligible for

net energy metering, including with respect to the mass market satellite customers in community distributed generation projects, though such projects may continue to receive compensation under VDER.

These modifications will be presented to the Authority's Board of Trustees for consideration after the Public Service Commission (the "PSC" or "Commission") has issued orders adopting the recommendations of the Department of Public Service and other stakeholders regarding these modifications. In addition, LIPA-specific public comment hearings will be held in Nassau and Suffolk Counties following issuance of the Commission orders and those comments will be addressed and/or incorporated into the proposed tariff amendments. Dates, times, and locations of the LIPA-specific public comment hearings will be posted on the Authority's website after the Commission orders have been issued.

Orders issued by the Commission pursuant to the recommendations described above will be presented, together with a compendium of public comments received, for consideration and adoption by the LIPA Board of Trustees at a regularly scheduled meeting of the Board following issuance of the Commission order.

Text of proposed rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

Data, views or arguments may be submitted to: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

Public comment will be received until: Five days after the last scheduled public hearing.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Office of Mental Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Limits on Executive Compensation

I.D. No. OMH-47-19-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend section 513.5 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09, 7.15(a), (b), 31.04, 31.059(a), 41.03, 41.15, 41.18, 41.44, 43.02; Not-for-Profit Corporation Law, section 508

Subject: Limits on Executive Compensation.

Purpose: To eliminate "soft cap" restrictions on compensation.

Text of proposed rule: 513.5 Limits on executive compensation.

(a) Limits on executive compensation.

Except if a covered provider has obtained a waiver pursuant to section 513.6 of this Part, a covered provider as defined in this regulation shall not use State funds or State-authorized payments for executive compensation given directly or indirectly to a covered executive in an amount greater than \$199,000 per annum, provided, however, that the office shall review this figure annually to determine whether adjustment is necessary based on appropriate factors and subject to the approval of the Director of the Division of the Budget. Commencing on July 1, 2013, the limits on executive compensation pursuant to this Part shall be effective and applicable to each covered provider on the first day of each covered provider's respective covered reporting period.

[(b) Except if a covered provider has obtained a waiver pursuant to section 513.6 of this Part, where a covered provider's executive compensation given to a covered executive is greater than \$199,000 per annum (including not only State funds and State-authorized payments but also any other sources of funding), and either:

(1) greater than the 75th percentile of that compensation provided to comparable executives in other providers of the same size and within the same program service sector and the same or comparable geographic area as established by a compensation survey identified, provided, or recognized by the office and the Director of the Division of the Budget; or

(2) was not reviewed and approved by the covered provider's board of directors or equivalent governing body (if such a board or body exists) including at least two independent directors or voting members (or, where a duly authorized compensation committee including at least two independent directors or voting members conducted such review on behalf of the full board, such actions were not reviewed and ratified by such board), or such review did not include an assessment of appropriate comparability data;

then such covered provider shall be subject to the penalties set forth in section 513.8 of this Part. To determine whether a covered provider may be subject to penalties, such provider shall provide, upon request by the office or its designee, contemporaneous documentation in a form and level of detail sufficient to allow such determination to be made.]

[c](b) Program services rendered by covered executives.

The limit on executive compensation pursuant to this section shall not be applied to limit reimbursement with State funds or State-authorized payments for reasonable compensation paid to a covered executive for program services, including but not limited to supervisory services performed to facilitate the covered provider's program services, rendered by the executive outside of his or her managerial or policy-making duties. Documentation of such program services rendered shall be used by the covered provider to determine that percentage, if any, of the covered executive's compensation that is attributable to program services, and that compensation shall not be considered in the calculation of his or her executive compensation. Such documentation shall be maintained and provided to the office or its designee upon request. Clinical and program personnel in a hospital or other entity providing program services, including chairs of departments, heads of service, chief medical officers, directors of nursing, or similar types of personnel fulfilling administrative functions that are nevertheless directly attributable to and comprise program services shall not be considered covered executives for purposes of limiting the use of State funds or State-authorized payments to compensate them.

[d](c) Covered providers with multiple sources of State funds or State-authorized payments.

If a covered provider receives State funds or State-authorized payments from multiple sources, the provider's compliance with the limits on executive compensation in subdivision (a) of this section shall be determined based upon the total amount of such funding received and the reimbursements received from all sources of State funds or State-authorized payments. As set forth in section 513.7 of this Part, the covered provider shall report all of such State funds and State-authorized payments in the form specified by the office or its designee.

[e](d) Subcontractors and agents of covered providers.

The limits on executive compensation in subdivision[s] (a) [and (b)] of this section and the reporting requirements in section 513.7 of this Part shall apply to subcontractors and agents of covered providers if and to the extent that such a subcontractor or agent has received State funds or State-authorized payments from the covered provider to provide program or administrative services during the reporting period and would otherwise meet the definition of a covered provider but for the fact that it has received State funds or State-authorized payments from the covered provider rather than directly from a governmental agency. A covered provider shall incorporate into its agreements with such a subcontractor or agent the terms of these regulations by reference to require and facilitate compliance. Upon request, covered providers shall promptly report to the funding or authorizing agency the identity of such subcontractors and agents, along with any other information requested by that agency or by the office or its designee. A covered provider shall not be held responsible for a subcontractor's or agent's failure to comply with these regulations.

[f](e) Covered providers receiving State funds or State-authorized payments from a county or local government or entity contracting on its behalf.

The office or its designee, rather than the county or local unit of government or an entity contracting on behalf of such government, shall be responsible for obtaining the necessary reporting from and compliance by such covered providers, and shall issue guidance to affected county and local governments to set forth the procedures by which the office or its designee shall do so.

[g](f) Other limits on executive compensation.

If the contract, grant, or other agreement is subject to more stringent limits on executive compensation, whether through law or contract, such limits shall control and shall not be affected by the less stringent limits imposed by these regulations. However, the definition and interpretation of terms in this Part shall not be affected or limited by the definition or interpretation of terms in other regulations or agreements.

[h](g) A covered provider's contract or other agreement with a covered executive agreed to prior to July 1, 2012, shall not be subject to the limits in this section during the term of the contract, except that:

(1) covered providers must apply for a waiver for any contracts or agreements with covered executives for executive compensation that

exceeds or otherwise fails to comply with these regulations if such contracts or agreements extend beyond April 1, 2015; and

(2) renewals of such contracts or agreements after the completion of their term must comply with these regulations.

Text of proposed rule and any required statements and analyses may be obtained from: Nancy Pepe, Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Nancy.Pepe@omh.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

This proposal is being filed as a Consensus rule on the grounds that it is non-controversial.

14 NYCRR Part 513 implemented Executive Order No. 38, requiring the Office of Mental Health to issue regulations governing the use of State funds and State-authorized payments in connection with providing program services to members of the public. The Order provided for a limit on administrative expenses and executive compensation of providers of program services in order to meet the State's ongoing obligation to ensure the proper use of taxpayer dollars and the most effective provision of such services to the public. These regulations were developed in coordination with other impacted agencies including the Department of Health, which have been subject to legal proceedings as they relate to executive compensation. The Court of Appeals determined the soft cap, limiting executive compensation at provider agencies which derive funding from non-state sources to be beyond the scope of executive power.

Section 513.5 of the Office of Mental Health (OMH) regulations currently provide for limits on executive compensation. Specifically, subparagraph (b) provides for such "soft cap" restriction on compensation. This amendment removes such references from the regulation.

Job Impact Statement

A Job Impact Statement is not submitted with this notice because the purpose of the amendment is to comply with a Court of Appeals determination relating to a potential overreach in the regulation. It is evident from the rule making that there will be no adverse impact on jobs and employment opportunities.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Waiver of National Grid's Code of Conduct to Allow for Use of Its Name

I.D. No. PSC-47-19-00011-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition from the New York National Grid companies to allow for the use of their name and logo as part of a weatherization program with Sealed Inc.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Waiver of National Grid's code of conduct to allow for use of its name.

Purpose: To determine if it is in the public interest to allow for the use of National Grid's name in the weatherization program.

Substance of proposed rule: The Commission is considering a petition from the New York National Grid companies (The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), KeySpan Gas East Corporation d/b/a National Grid (KEDLI), and Niagara Mohawk Power Corporation d/b/a National Grid, collectively National Grid or the Companies)) to allow for the use of their name and logo as part of a weatherization program implemented by Sealed Inc. (Sealed).

The petition states that Sealed offers weatherization services to homeowners, the cost of which is paid for by the energy savings the homeowners experience. National Grid states that several other gas and electric utilities in New York offer Sealed services to their ratepayers, and National Grid is currently considering partnering with Sealed to do the same.

National Grid states that (i) its current code of conduct provides that "no non National Grid company will be allowed to use the same name, trade names, trademarks, service names, service marks or a derivative of a name of RegCo in any manner," and (ii) this language potentially would

prevent Sealed from marketing its services to National Grid ratepayers through a co-branded website or other marketing material.

National Grid is requesting that the Commission issue a declaratory ruling that the contemplated partnership with Sealed does not violate its code of conduct, or in the alternative, the Commission grant a waiver to allow the use of National Grid's name and logo in conjunction with Sealed's weatherization services.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-G-0690SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Transfer of Street Lighting Facilities to the Village of Cayuga Heights

I.D. No. PSC-47-19-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition filed by New York State Electric & Gas Corporation for the transfer of its street lighting facilities located in the Village of Cayuga Heights with an original value over \$100,000 to the Village of Cayuga Heights.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities to the Village of Cayuga Heights.

Purpose: To consider whether the transfer of street lighting facilities to the Village of Cayuga Heights is in the public interest.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed by New York State Electric & Gas Corporation (NYSEG) on October 21, 2019, requesting approval to transfer to the Village of Cayuga Heights (Village) ownership of its system of street lighting poles, luminaires, lamps, mast arms, electrical connections, and wiring for street lighting installed throughout the Village.

Based on plant records, the original book cost of the street lighting facilities is approximately \$251,842. As of June 30, 2019, these street lighting facilities had an accrued depreciation balance of \$112,143, resulting in a net book value of \$139,699. NYSEG proposes to transfer the street lighting facilities to the Village at the agreed upon sale price of \$183,508. Upon the closing date of the sale, the Village would become solely responsible and liable for the operation, maintenance, and condition of the street lighting facilities.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle Phillips, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6517, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-E-0685SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Compensation of Distributed Energy Resources

I.D. No. PSC-47-19-00013-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering the petition filed by NYSEDA requesting reallocation of CDG compensation capacity from cancelled projects in MTC Tranches to a new Community Credit Tranche and authorization to use NY-Sun funds for a Community Adder.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2), (5) and 66-p

Subject: Compensation of distributed energy resources.

Purpose: To ensure just and reasonable rates, including compensation, for distributed energy resources.

Substance of proposed rule: The Public Service Commission is considering the petition filed by the New York State Energy Research and Development Authority (NYSEDA) on November 1, 2019 regarding compensation for Community Distributed Generation (CDG) projects.

The petition notes that the availability of the Community Credit (CC) for new CDG projects receiving Value Stack compensation in several upstate utility territories is almost exhausted. The petition requests that the Commission reallocate Market Transition Credit (MTC) capacity associated with cancelled projects in those territories to a new CC Tranche and also authorize NYSEDA to use unallocated NY-Sun funds to provide a Community Adder to new CDG projects in upstate utility territories where no CC is available. The Value Stack is used to calculate compensation to eligible distributed energy resources (DERs) and is based on the calculable benefits the DERs create. The MTC and CC are adders to the Value Stack for eligible DERs to support the transition from net metering to the Value Stack and recognize that some benefits are not yet included in the Value Stack. The Community Adder is an alternative to the MTC or CC that offers similar value to eligible DERs through an upfront payment from NYSEDA.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0751SP30)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Whether a Proposed Agreement for the Provision of Water Service by Saratoga Water Services, Inc. Is in the Public Interest

I.D. No. PSC-47-19-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering the petition of Saratoga Water Services, Inc. for a waiver to allow it to provide service to a customer outside its service territory on non-tariff terms.

Statutory authority: Public Service Law, sections 4(1), 20(1) and 89-b

Subject: Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest.

Purpose: To consider whether a tariff waiver and the proposed terms of a service agreement are in the public interest.

Substance of proposed rule: The Commission is considering the petition of Saratoga Water Services, Inc. (Saratoga) for a waiver to allow it to provide service to a customer outside its service territory on non-tariff terms. Saratoga seeks to provide water service to Millerton Co-op, Inc. (Millerton), which is outside Saratoga's Department of Environmental Conservation (DEC) defined service territory. Saratoga would also need permission from DEC to provide service to Millerton.

Saratoga seeks through the Petitioner to provide service to Millerton under the terms of an "Agreement for the Provision of Water Service" (Agreement) dated July 12, 2019, which is not consistent with Saratoga's existing tariff and Commission regulations (16 NYCRR Parts 501 and 502). Specifically, Millerton would pay for the entire cost of extending Saratoga's infrastructure to provide service without receiving potential refunds of that cost. In addition, Saratoga seeks waiver of the Commission's requirement (16 NYCRR § 501.9) to file main extension agreements within 30 days of their execution (the Petition and Agreement were filed beyond that deadline but Saratoga argues there is no harm to Millerton from the delay). Finally, Saratoga seeks a waiver of 16 NYCRR § 501.10, which requires water companies to receive permission from DEC to extend their service territory before seeking a waiver of tariff requirements from the Commission.

The petition requests an Order (a) approving the terms and conditions of the Agreement as being in the public interest, (b) determining that the provision of water service by Saratoga, in accordance with the terms set forth in the Agreement, is in the public interest, (c) waiving Saratoga's tariff provisions to the extent they are inconsistent with the Agreement, and (d) waiving the applicability of 16 NYCRR §§ 501, including §§ 501.10 and 502 to the extent they are inconsistent with the Agreement.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-W-0682SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Customer Consent to Contact

I.D. No. PSC-47-19-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering proposals filed by Central Hudson Gas & Electric Corporation to modify its electric and gas tariff schedules to establish a new provision, Customer Consent to Contact.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Customer Consent to Contact.

Purpose: To include a new provision establishing customer consent for the utility to contact them electronically about utility service.

Substance of proposed rule: The Commission is considering proposals filed by Central Hudson Gas & Electric Corporation (Central Hudson or the Company) on October 22, 2019, to establish a new provision, entitled "Customer Consent to Contact."

Central Hudson proposes modifications to its electric and gas tariff schedules, P.S.C. No. 15 and P.S.C. No. 12, respectively, to add the new provision. The revisions are intended to clarify the customer's consent to receive autodialed and prerecorded/automated calls and texts (collectively "communications") from the Company and/or certain agents. Such communications would be limited to those that: warn/inform about planned or unplanned service outages; provide updates about service outages or service restoration; provide information about potential brown-outs due to heavy energy usage; ask for confirmation of service restoration or information about lack of service; provide notification of meter work, tree trimming, or other field work related to the customer's utility service; provide notification of the possibility of subsidized or lower-cost services; and are otherwise related to handling, servicing, and billing of a customer's account. Calls may include contact from companies working on Central Hudson's behalf to service customers' accounts. Customers may opt-out of these communications by contacting the Company via phone call, mail, e-mail, or by replying "STOP" in response to a text message. Message and data rates may apply. The proposed amendments have an effective date of March 1, 2020.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle Phillips, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6517, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-M-0687SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-47-19-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering the notice of intent of 378 WEA OWNER LLC to submeter electricity at 378 West End Avenue, New York, New York 10024.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of intent to submeter electricity.

Purpose: To ensure adequate submetering equipment and consumer protections are in place.

Substance of proposed rule: The Commission is considering the notice of intent, filed by 378 WEA OWNER LLC on October 23, 2019, to submeter electricity at 378 West End Avenue, New York, New York 10024, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

By stating its intent to submeter electricity, 378 WEA OWNER LLC requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its tenants. Submetering of electricity to residential tenants is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the notice of intent and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-E-0689SP1)

State University of New York

ERRATUM

A Notice of Adoption, I.D. No. SUN-15-19-00007-A, regarding Proposed Amendments to Appointment of Employees and Leave of Absence for Employees in the Professional Service, published in the October 16, 2019 issue of the State Register, indicated that the action taken pertained to the "Amendment of sections 335.4(d) and 335.8(c) of Title 8 NYCRR; the "actions taken" field in this published Notice of Adoption inadvertently did not also list the "amendment of Part 337." This erratum is intended to provide information to supplement the actions indicated in this Notice of Adoption, and thereby conform such indicated actions to those listed in the associated Notice of Proposed Rulemaking ("amend sections 335.4(d), 335.8(c) and Part 337 of Title 8 NYCRR), which was published on April 10, 2019.

Department of Taxation and Finance

NOTICE OF ADOPTION

Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Article 13-A Carrier Tax Jointly Administered Therewith

I.D. No. TAF-34-19-00013-A

Filing No. 999

Filing Date: 2019-11-05

Effective Date: 2019-11-05

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 492.1(b)(1) of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First, 301-h(c), 509(7), 523(b) and 528(a)

Subject: Fuel use tax on motor fuel and diesel motor fuel and the article 13-A carrier tax jointly administered therewith.

Purpose: To set the sales tax component and the composite rate per gallon for the period October 1, 2019 through December 31, 2019.

Text or summary was published in the August 21, 2019 issue of the Register, I.D. No. TAF-34-19-00013-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kathleen D. Chase, Tax Regulations Specialist, Department of Taxation and Finance, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 573-5371, email: kathleen.chase@tax.ny.gov

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Article 13-A Carrier Tax Jointly Administered Therewith

I.D. No. TAF-47-19-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 492.1(b)(1) of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First, 301-h(c), 509(7), 523(b) and 528(a)

Subject: Fuel use tax on motor fuel and diesel motor fuel and the article 13-A carrier tax jointly administered therewith.

Purpose: To set the sales tax component and the composite rate per gallon for the period January 1, 2020 through March 31, 2020.

Text of proposed rule: Section 1. Paragraph (1) of subdivision (b) of section 492.1 of such regulations is amended by adding a new subparagraph (xcvii) to read as follows:

Motor Fuel			Diesel Motor Fuel		
Sales Tax Component	Composite Rate	Aggregate Rate	Sales Tax Component	Composite Rate	Aggregate Rate
(xcvi) October-December 2019					
15.6	23.6	41.30	16.0	24.0	39.95
(xcvii) January-March 2020					
15.2	23.2	40.60	16.0	24.0	39.65

Text of proposed rule and any required statements and analyses may be obtained from: Kathleen D. Chase, Tax Regulations Specialist, Department of Taxation and Finance, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4153, email: kathleen.chase@tax.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Urban Development Corporation

NOTICE OF ADOPTION

Life Sciences Initiative Program

I.D. No. UDC-33-19-00006-A

Filing No. 992

Filing Date: 2019-10-30

Effective Date: 2019-11-20

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of Part 4255 to Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, sections 5(4), 9-c, 16-aa; L. 2017, ch. 58, part TT

Subject: Life Sciences initiative Program.

Purpose: Create administrative procedures for all components of the Life Sciences Initiatives program.

Text or summary was published in the August 14, 2019 issue of the Register, I.D. No. EDV-33-19-00006-EP.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Thomas Regan, Urban Development Corporation, 625 Broadway, Albany NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

1) The program regulations should include and encourage agricultural sciences and entrepreneurial ventures.

As the commenter notes, the Life Science Initiative's guidelines specifically include "agricultural biotechnology" under the definition of Life Sciences, in addition to many other areas that comprise the life sciences. Empire State Development ("ESD") welcomes applications focused on agricultural biotechnology projects that contribute to the nurturing, growth and retention of new life sciences companies in New York State; the creation and expansion of life sciences businesses and employment, and the development of the state's life sciences ecosystem. To date, none have been received.

Although ESD has not received funding requests for projects related to agricultural biotechnology, the state has funded initiatives, such as JLABS@NYC, where there is an opportunity for participation by companies focused on food and agricultural innovation. We anticipate there will be other initiatives that would welcome applications from innovative agricultural companies.

ESD also supports agribusiness through its agribusiness division, which is focused solely on supporting agricultural innovation and business development.

2) Eligibility for the NYFIRST program should be broadened to include colleges engaged in life science work with human health impacts.

The Life Science Initiative was strategically designed to address development of the life sciences ecosystem from numerous perspectives. The NYFIRST program was created specifically to incentivize medical schools to invest in translational research talent as a way to help enhance the life science landscape in New York. NYFIRST is just one small component (offering a total of \$15 million in grants) of a much broader, multi-pronged approach (from a pool of more than \$300 million in grants) to create a vibrant life science cluster in the state.

ESD is supporting other programs, such as the Empire Discovery Institute and JLABS@NYC, that capitalize on the research being conducted at major universities and research institutions.

ESD has not made any changes to the regulations based on these comments.

Workers' Compensation Board

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Updating the Prescription Drug Formulary

I.D. No. WCB-47-19-00004-EP

Filing No. 996

Filing Date: 2019-11-04

Effective Date: 2019-11-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Proposed Action: Amendment of section 441.2 of Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 13-p, 117 and 142

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: This amendment is adopted as an emergency measure because the Board wants to avoid confusion, litigation and provide guidance on situations where the prescription drug does not appear in the Medical Treatment Guidelines (MTGs) but still may be helpful in treating injured workers based on accepted standards of care.

Subject: Updating the prescription drug formulary.

Purpose: To update formulary and add special consideration guidance for drugs not included in the MTGs.

Text of emergency/proposed rule: Section 441.2 of Title 12 NYCRR is hereby amended to read as follows:

441.2 New York Workers' Compensation Formulary

The New York Workers' Compensation Formulary, [1st] *second* edition ([January 23] *November 5*, 2019), incorporated by reference herein, identifies drugs using three lists: a) Phase A for prescriptions within the first thirty days following an Accident or injury; b) Phase B for prescriptions after, the sooner of, the first thirty days following an Accident or injury or acceptance or establishment of the claim; and c) Perioperative for use during the Perioperative period. Copies of the Formulary may be downloaded from the Board's website free of charge. The Formulary may be examined at the office of the Department of State, 99 Washington Avenue, Albany, New York 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the Board, or obtained from the Board by submitting a request in writing, with a fee of five dollars, to the New York State Workers' Compensation Board, 328 State Street, Schenectady, New York 12305-2318. Payment of the fee shall be made by check or money order payable to "Chair WCB." Information about the Formulary can be requested by email at GENERAL_INFORMATION@wcb.ny.gov, or by telephone at 1-800-781-2362.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire February 1, 2020.

Text of rule and any required statements and analyses may be obtained from: Heather MacMaster, Workers' Compensation Board, Office of General Counsel, 328 State Street, Schenectady, NY 12305, (518) 486-9564, email: regulations@wcb.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: Workers' Compensation Law (WCL) § 13-p requires the Chair to adopt a drug formulary and provide for amendment to the formulary upon consideration of suggestions made by interested parties, and WCL § 117(1) authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL.

2. Legislative objectives: The proposal seeks to modify the drug formulary based on review and consideration of suggestions made by interested parties as required by section 13-p of the WCL, and provide guidance on when certain prescription drugs do not appear in the Medical Treatment Guidelines, but would be helpful in treating injured workers.

3. Needs and benefits: Workers' Compensation Law § 13-p required the Chair to consider suggestions made for changes to the formulary. The proposal contains an additional special consideration in response to feedback received, as the intent is for the drug formulary to evolve to better address the needs of injured workers. The proposal closes a gap to better provide necessary treatment to injured workers.

4. Costs: The only costs associated with this proposal would be the minor programming costs to incorporate the minimal changes to the formulary.

5. Local government mandates: The proposal does not impose any program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district. However, a municipality or governmental agency that is self-insured is required to comply with the same rules required of insurance carriers.

6. Paperwork: The proposal does not impose any new reporting requirements.

7. Duplication: The proposal does not duplicate other regulatory initiatives.

8. Alternatives: An alternative would be to not update the formulary, but as the legislative objective is to consider the suggestions of interested parties and the Board has considered the suggestions and finds them to be meritorious. Accordingly, not updating the list is not advisable.

9. Federal standards: There are no applicable Federal Standards.

10. Compliance schedule: All affected pharmacies, carriers, and self-insured employers will have to comply with the prescription drug formulary by December 5, 2019 for new prescriptions and June 5, 2020 for renewals.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required because the proposal will not have any adverse economic impact or impose any reporting, record-keeping or other compliance requirements on small businesses or local governments. The proposal provides guidance about which drugs may be used to treat injured workers, which will not have any adverse impact on small businesses or local governments.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not required because the proposal will not have any impact rural areas. The proposal provides guidance about drugs that may be used to treat injured workers. The amendment will not affect rural areas in any manner.

Job Impact Statement

A Job Impact Statement is not required because the proposal will not have any impact on jobs or employment opportunities. The proposal provides additional guidance for drugs not included in the MTGs and will not affect jobs or employment opportunities in any manner.

HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
Environmental Conservation, Department of		
ENV-36-19-00014-P	Distributed generation sources located in New York City, Long Island, Westchester and Rockland Counties	Department of Transportation, One Hunters Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—November 20, 2019, 2:00 p.m.
ENV-39-19-00003-P	Part 219 applies to various types of incinerators and crematories operated in New York State	Suffolk County Water Authority, 260 Motor Pkwy., Hauppauge, NY—December 3, 2019, 11:00 a.m. 6274 Avon-Lima Rd. (Rtes. 5 and 20), Conference Rm., Avon, NY—December 4, 2019, 11:00 a.m.
ENV-43-19-00006-P	Class I and Class SD waters	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—December 6, 2019, 11:00 a.m.
ENV-43-19-00010-P	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624	Department of Environmental Conservation, Region 2, 4740 21st St., Long Island City, NY—January 8, 2020, 2:00 p.m.
Power Authority of the State of New York		
PAS-42-19-00008-P	Rates for the sale of power and energy	Power Authority of the State of New York, 123 Main St., White Plains, NY—November 22, 2019, 11:00 a.m.

ACTION PENDING INDEX

The action pending index is a list of all proposed rules which are currently being considered for adoption. A proposed rule is added to the index when the notice of proposed rule making is first published in the *Register*. A proposed rule is removed from the index when any of the following occur: (1) the proposal is adopted as a permanent rule; (2) the proposal is rejected and withdrawn from consideration; or (3) the proposal's notice expires.

Most notices expire in approximately 12 months if the agency does not adopt or reject the proposal within that time. The expiration date is printed in the second column of the action pending index. Some notices, however, never expire. Those notices are identified by the word "exempt" in the second column. Actions pending for one year or more are preceded by an asterisk(*).

For additional information concerning any of the proposals

listed in the action pending index, use the identification number to locate the text of the original notice of proposed rule making. The identification number contains a code which identifies the agency, the issue of the *Register* in which the notice was printed, the year in which the notice was printed and the notice's serial number. The following diagram shows how to read identification number codes.

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	00001	P

Action codes: P — proposed rule making; EP — emergency and proposed rule making (expiration date refers to proposed rule); RP — revised rule making

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
AGING, OFFICE FOR THE			
AGE-34-19-00014-P	08/20/20	Limits on Administrative Expenses and Executive Compensation	To bring this rule into compliance with current law in New York State
AGRICULTURE AND MARKETS, DEPARTMENT OF			
AAM-21-19-00002-ERP	05/21/20	Control of the European Cherry Fruit Fly	To help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested.
AAM-33-19-00003-P	08/13/20	State aid to districts	To conform Part 363 to S&WCL Sec. 11-a statutory amendments and to make technical amendments.
AAM-34-19-00001-EP	08/20/20	Spotted Lanternfly ("SL")	To prevent SL-infested articles originating in Dauphin County, in PA, or Cecil County, in MD, from entering NYS
AAM-43-19-00009-P	10/22/20	Control of the Asian Long Horned Beetle (ALB)	To lift approximately 58 square miles of Asian long horned beetle quarantine in Brooklyn and western Queens
AAM-47-19-00002-P	11/19/20	Golden Nematode (<i>Globodera Rostochiensis</i>) Quarantine	To lift the Golden Nematode quarantine in portions of the Towns of East Hampton and Riverhead in Suffolk County.
ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF			
ASA-39-19-00004-P	09/24/20	Designated services (acupuncture and telepractice)	To identify standards for designation to provide acupuncture or telepractice services
ASA-39-19-00006-P	09/24/20	Children's behavioral health services	To identify addiction treatment services for children and families
ASA-44-19-00002-P	10/29/20	Limits on administrative expenses and executive compensation	To define limits on administrative expenses and executive compensation in accordance with state law and Executive Order 38

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-51-18-00010-P	12/19/19	Residential and non-residential services to victims of domestic violence	To conform the existing regulations to comply with state and federal laws regarding services to victims of domestic violence
CFS-19-19-00006-ERP	05/07/20	Procedures for addressing children absent without consent from foster care, conditional releases and searches	To put into place procedures for children absent without consent from foster care, conditional releases and searches
CFS-36-19-00004-EP	09/03/20	Removal of non-medical exemption from vaccination regulations for child day care programs	To remove the non-medical exemption from vaccination regulations for child day care programs
CFS-39-19-00005-EP	09/24/20	Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.	Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.
CFS-39-19-00007-EP	09/24/20	Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.	Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.
CFS-42-19-00002-P	10/15/20	Permissible disclosure of records maintained by OCFS.	To amend existing regulations regarding the permissible disclosure of records by OCFS.
CFS-46-19-00002-P	11/12/20	Behavioral health services, elimination of room isolation and authority to operate de-escalation rooms	To implement standards for behavioral health services and the operation of de-escalation rooms and to eliminate room isolation
CIVIL SERVICE, DEPARTMENT OF			
CVS-06-19-00001-P	02/06/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-19-00003-P	03/26/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-18-19-00007-P	04/30/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-19-00008-P	04/30/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-25-19-00001-P	06/18/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes.
CVS-25-19-00002-P	06/18/20	Jurisdictional Classification	To classify positions in the exempt class.
CVS-25-19-00003-P	06/18/20	Jurisdictional Classification	To classify a position in the exempt class.
CVS-25-19-00004-P	06/18/20	Jurisdictional Classification	To delete positions from the non-competitive class.
CVS-25-19-00005-P	06/18/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class.
CVS-25-19-00006-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-25-19-00007-P	06/18/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class.
CVS-25-19-00008-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-25-19-00009-P	..... 06/18/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes.
CVS-25-19-00010-P	..... 06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-29-19-00001-P	..... 07/16/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class
CVS-29-19-00002-P	..... 07/16/20	Jurisdictional Classification	To classify a position in the exempt class and to delete positions from and classify a position in the non-competitive class
CVS-29-19-00003-P	..... 07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00004-P	..... 07/16/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-29-19-00005-P	..... 07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00006-P	..... 07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00007-P	..... 07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00008-P	..... 07/16/20	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-29-19-00009-P	..... 07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00010-P	..... 07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00011-P	..... 07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00012-P	..... 07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00013-P	..... 07/16/20	Jurisdictional Classification	To classify positions in the exempt class and to delete positions from the non-competitive class
CVS-29-19-00014-P	..... 07/16/20	Jurisdictional Classification	To delete a position in the non-competitive class
CVS-34-19-00002-P	..... 08/20/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes.
CVS-34-19-00003-P	..... 08/20/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-34-19-00004-P	..... 08/20/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-34-19-00005-P	..... 08/20/20	Jurisdictional Classification	To classify a position in the non-competitive class

Action Pending Index**NYS Register/November 20, 2019**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-34-19-00006-P	08/20/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-34-19-00007-P	08/20/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-34-19-00008-P	08/20/20	Jurisdictional Classification	To delete a subheading and to delete a position in the non-competitive class
CVS-34-19-00009-P	08/20/20	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-34-19-00010-P	08/20/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes
CVS-34-19-00011-P	08/20/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00009-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00010-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00011-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00012-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00013-P	10/15/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-42-19-00014-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00015-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00016-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00017-P	10/15/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-42-19-00018-P	10/15/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-42-19-00019-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00020-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00021-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00022-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00023-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00024-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-42-19-00025-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes
CVS-42-19-00026-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class and to delete a position from and classify positions in the non-competitive class
CVS-42-19-00027-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes
CVS-45-19-00003-P	11/05/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-45-19-00004-P	11/05/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-45-19-00005-P	11/05/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class
CVS-45-19-00006-P	11/05/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-45-19-00007-P	11/05/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-45-19-00008-P	11/05/20	Jurisdictional Classification	To delete positions from and classify a position in the labor class
CVS-45-19-00009-P	11/05/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CORRECTION, STATE COMMISSION OF			
CMC-35-19-00002-P	08/27/20	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
CMC-41-19-00002-EP	10/08/20	Necessary age for admission to an adult lockup	To ensure that individuals under 18 years old are not admitted to an adult lockup
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-05-19-00006-RP	01/30/20	Standard Conditions of Release Parole Revocation Dispositions	Establish standard conditions of release and provide a workable structure for applying appropriate parole revocation penalties
CCS-21-19-00014-P	05/21/20	Adolescent Offender Facilities	To reclassify two existing correctional facilities to adolescent offender facilities.
CCS-32-19-00007-P	08/06/20	Transfer of Foreign Nationals	Correct spelling and update employee responsibility
CCS-35-19-00001-P	08/27/20	Special Housing Units	Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-20-19-00003-P	05/14/20	Certified Instructors and Course Directors	Establish/maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses
CJS-30-19-00010-EP	07/23/20	Use of Force	Set forth use of force reporting and recordkeeping procedures
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-43-19-00001-P	10/22/20	Empire State Commercial Production Credit Program	Create administrative procedures for all components of the Empire State Commercial Production Credit Program
EDUCATION DEPARTMENT			
*EDU-40-18-00010-RP	01/01/20	Professional development plans and other related requirements for school districts and BOCES	To improve the quality of teaching and learning for teachers and leaders for professional growth
EDU-52-18-00005-P	12/26/19	Annual professional performance reviews.	To extend the transition period for an additional year (until 2019-2020).
EDU-05-19-00008-RP	01/30/20	Protecting Personally Identifiable Information	To implement the provisions of Education Law section 2-d
EDU-17-19-00008-P	04/23/20	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
EDU-27-19-00010-P	07/02/20	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-31-19-00009-EP	07/30/20	Instructional Time for State Aid purposes	To provide school districts with additional flexibility when establishing their school calendars
EDU-39-19-00008-P	09/24/20	The Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect	To more closely align New York's requirements for architects with national standards and to streamline the endorsement process.
EDU-39-19-00009-P	09/24/20	Requirements for Licensure as an Architect	To more closely align the Commissioner's Regulations with national standards for licensure as an architect.
EDU-39-19-00012-P	09/24/20	Building Condition Surveys and Visual and Periodic Inspections of Public School Buildings	To align the Commissioner's Regulations with amendments made to Education Law sections 409-9d, 409-e, and 3641.
EDU-43-19-00011-P	10/22/20	Addition of Subject Ares to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities	To enable more qualified teachers of students with disabilities to seek the limited extension and SOCE
EDU-43-19-00012-EP	10/22/20	Annual Professional Performance Reviews of Classroom Teachers and Building Principals	Necessary to implement part YYY of chapter 59 of the Laws of 2019
EDU-43-19-00013-P	10/22/20	Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor	To conform educational requirements for the profession of chiropractic to the national preprofessional education standards

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-47-19-00005-P	11/19/20	Physical Education Requirements for a Diploma and Transfer Credits for Students Earning Credit in an Educational Program.	To implement Raise the Age legislation pursuant to Part WWW of Chapter 59 of the Laws of 2017.
EDU-47-19-00006-EP	11/19/20	Permit physicians licensed in another state or territory to provide medical services to athletes and team personnel in New York	To align the Regulations of the Commissioner with Chapter 519 of the laws of 2018 and Chapter 199 of the Laws of 2019.
EDU-47-19-00007-EP	11/19/20	Profession of Registered Dental Assisting.	To conform the Regulations of the Commissioner with Chapter 390 of the laws of 2019.
ELECTIONS, STATE BOARD OF			
SBE-22-19-00003-EP	05/28/20	Process for Early Voting	Establishing Process for Early Voting
SBE-35-19-00003-EP	08/27/20	Ballot Accountability Practices	Establishes additional ballot accountability procedures
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-09-19-00015-RP	05/13/20	Set nitrogen oxide (NOx) emission rate limits for simple cycle and regenerative combustion turbines	Reduction of nitrogen oxide (NOx) emissions from simple cycle and regenerative combustion turbines
ENV-10-19-00003-P	05/13/20	Regulate volatile organic compounds (VOCs) in architectural and industrial maintenance (AIM) coatings	To set new and lower VOC limits for certain coating categories. Update categories and methods
ENV-18-19-00006-EP	04/30/20	Regulations governing commercial fishing and harvest of scup.	To revise regulations concerning the commercial harvest of scup in New York State waters.
ENV-24-19-00002-P	08/18/20	Hazardous Waste Management Regulations (FedReg5)	To amend regulations pertaining to hazardous waste management
ENV-27-19-00001-P	07/02/20	Feeding of wild deer and moose, use of 4-Poster TM devices.	To prohibit feeding of wild deer and moose, to define conditions for use of 4-Poster TM devices.
ENV-27-19-00003-P	07/02/20	Black Bear hunting.	Expand bear hunting opportunities in Wildlife Management Unit 4W to reduce bear abundance.
ENV-29-19-00016-P	09/15/20	Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NOx)	Regulation of NOx emissions from major facilities of NOx. The regulation sets NOx limits for boilers, turbines, and engines
ENV-31-19-00008-EP	07/30/20	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health
ENV-36-19-00001-P	11/07/20	Waste Fuels	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and incorporate federal standards.
ENV-36-19-00002-P	11/07/20	New Aftermarket Catalytic Converter (AMCC) standards	Prohibit sale of federal AMCCs and update existing AMCC record keeping and reporting requirements

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-36-19-00003-P	11/07/20	Stationary Combustion Installations	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.
ENV-36-19-00014-P	11/19/20	Distributed generation sources located in New York City, Long Island and Westchester and Rockland counties	Establish emission control requirements for sources used in demand response programs or as price-responsive generation sources
ENV-37-19-00003-P	09/10/20	Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations	To improve the review of projects by removing some project types that are known not to cause harm from the review stream
ENV-38-19-00001-P	09/17/20	Animals dangerous to health or welfare	To expand the list of animals which pose a risk to health or welfare of the people of the state or indigenous fish and wildlife
ENV-39-19-00003-P	12/05/20	Part 219 applies to various types of incinerators and crematories operated in New York State.	This rule establishes emission limits and operating requirements for various types of incinerators.
ENV-42-19-00003-P	10/15/20	Amendments to Great Lakes sportfishery regulations in 6NYCRR Part 10	Proposed amendments are intended to improve high quality sportfisheries and associated economic benefits
ENV-43-19-00006-P	01/07/21	Class I and Class SD waters	To clarify best usages of Class I and SD waters were/are "secondary contact recreation and fishing" and "fishing," respectively
ENV-43-19-00010-P	01/06/21	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Part 624, Part 621 and Part 620	To incorporate procedural and legal developments, develop consistency & reflect current practice in DEC hearings
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
DFS-46-18-00014-P	11/14/19	Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act- Claims for Personal Injury Protection Benefit	To give insurer option to void assignment of benefits when insurer issues denial for EIP's failure to attend IME or EUO
DFS-18-19-00005-P	04/30/20	Servicing Mortgage Loans: Business Conduct Rules	Sets standards governing the servicing of residential home mortgage loans.
DFS-20-19-00002-P	05/14/20	Electronic Filings and Submissions	To require certain filings or submissions to be made electronically
DFS-20-19-00004-P	05/14/20	Valuation of Individual and Group Accident and Health Insurance Reserves	To adopt the 2016 Cancer Claim Cost Valuation Tables
DFS-21-19-00005-P	05/21/20	Continuing Care Retirement Communities	Amend rules related to permitted investments, financial transactions, reporting requirements and add new optional contract type.
DFS-28-19-00007-P	07/09/20	Accelerated Payment of the Death Benefit Under a Life Insurance Policy	Implement statutory amendments in: Laws of 2017 ch. 300, Laws of 2014 ch. 465, Laws of 2014 ch. 448, and Laws of 2010 ch. 563

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
DFS-32-19-00003-P	08/06/20	Minimum Standards for Form, Content and Sale of Medicare Supplement and Medicare Select Insurance, et al.	To conform with the NAIC model regulation for Medicare supplement insurance, as required by 42 U.S.C. Section 1395ss.
DFS-33-19-00004-P	08/13/20	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To set forth minimum standards for the content of health insurance identification cards.
DFS-39-19-00002-P	09/24/20	LICENSED CASHERS OF CHECKS; FEES	To increase the maximum fee that may be charged by licensed check cashers
DFS-43-19-00017-P	10/22/20	INDEPENDENT DISPUTE RESOLUTION FOR EMERGENCY SERVICES AND SURPRISE BILLS	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-44-19-00010-P	10/29/20	Superintendent's Regulations: Basic Banking Accounts	To amend the requirements of basic banking accounts in conformity with Chapter 260 of the Laws of 2019
DFS-44-19-00011-P	10/29/20	Principle-Based Reserving	To prescribe minimum principle-based valuation standards
DFS-47-19-00003-P	11/19/20	Banking Division Assessments	Set forth the basis for allocating costs and expenses attributable to the operation of the Banking Division for FSL assessments
GAMING COMMISSION, NEW YORK STATE			
SGC-40-19-00011-P	10/01/20	Remove obsolete reference to safety vest weight	To promote the integrity of racing and derive a reasonable return for government
SGC-40-19-00012-P	10/01/20	Add racetrack operator to terms defined in Thoroughbred rules	To promote the integrity of racing and derive a reasonable return for government
SGC-42-19-00004-P	10/15/20	Add racetrack operator to terms defined in harness racing rules	To promote the integrity of racing and derive a reasonable return for government
GENERAL SERVICES, OFFICE OF			
GNS-40-19-00005-P	10/01/20	Facility Use	To add "plastic knuckles" and remove "gravity knife" from the definition of "deadly weapon"
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-51-18-00018-P	12/19/19	New requirements for Annual Registration of Licensed Home Care Services Agencies	To amend the regulations for licensed home care services agencies for the annual registration requirements of the agency
HLT-30-19-00006-P	07/23/20	Maximum Contaminant Levels (MCLs)	Incorporating MCLs for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and 1,4-dioxane.
HLT-36-19-00005-EP	09/03/20	School Immunization Requirements	To be consistent with national immunization regulations and guidelines and to define "may be detrimental to the child's health".

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-36-19-00006-P	09/03/20	Limits on Executive Compensation	Removes "Soft Cap" prohibition on covered executive salaries.
HLT-40-19-00002-EP	10/01/20	Required Signage Warning Against the Dangers of Illegal Products	To require sellers of legal e-liquids and e-cigarette products to post warning signs regarding illegal products
HLT-40-19-00004-P	10/01/20	Drug Take Back	To implement the State's drug take back program to provide for the safe disposal of drugs
HLT-43-19-00005-P	10/22/20	Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness	Delineate a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness
HLT-45-19-00001-P	11/05/20	Medical Use of Marihuana	To allow NYS hemp growers to sell hemp-derived cannabidiol to the Registered Organizations to reduce the cost of manufacturing.
HLT-45-19-00002-P	11/05/20	Licensed Home Care Services Agencies (LHCSAs)	To implement changes to public need & financial feasibility review for applications for HCSAs licensure & change of ownership.
HLT-46-19-00003-P	11/12/20	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
HLT-47-19-00008-P	11/19/20	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
HLT-47-19-00009-P	11/19/20	Empire Clinical Research Investigator Program (ECRIP)	To expand the types of & change the time frames for past research grants that qualify staff to supervise the ECRIP project.
HOUSING AND COMMUNITY RENEWAL, DIVISION OF			
HCR-21-19-00019-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits.
HOUSING FINANCE AGENCY			
HFA-21-19-00020-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
HUMAN RIGHTS, DIVISION OF			
HRT-27-19-00002-P	07/02/20	Gender Identity or Expression Discrimination	To conform the Division's regulations with Executive Law as amended by Chapter 8 of the Laws of New York 2019.
LABOR, DEPARTMENT OF			
LAB-46-19-00004-P	11/12/20	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	..... exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	..... exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	..... exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	..... exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	..... exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	..... exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	..... exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	..... exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.
LPA-37-19-00005-P	..... exempt	The Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	To update the Tariff to implement the Authority's annual budget and corresponding rate adjustments
LPA-37-19-00006-P	..... exempt	The modification of the SGIP to clarify and reflect updates to the State's Standardized Interconnection Requirements (SIR)	To be consistent with the State's SIR and related orders
LPA-37-19-00007-P	..... exempt	The standard rates for pole attachments of the Authority's Tariff for Electric Service	To update the Authority's standard rates for pole attachments in accordance with recent Public Service Commission action
LPA-47-19-00017-P	..... exempt	VDER, net metering, and community distributed generation	To update the Authority's tariff for consistency with the Public Service Commission, Department of Public Service, and CLCPA.
MENTAL HEALTH, OFFICE OF			
OMH-43-19-00008-P	..... 10/22/20	Personalized Recovery Oriented Services (PROS)	To Allow PROS participants to receive Clinic Treatment from an Article 31 Clinic operated by the same agency
OMH-46-19-00005-P	..... 11/12/20	Definition of "Case record, clinical record, medical record or patient record"	To clarify that the agency does not consider the provision to apply to the definition of "record" as set forth in MHL 9.01
OMH-47-19-00001-P	..... 11/19/20	Limits on Executive Compensation	To eliminate "soft cap" restrictions on compensation.
METROPOLITAN TRANSPORTATION AGENCY			
MTA-23-19-00006-EP	..... 06/04/20	Debarment of contractors	To comply with Public Authorities Law, section 1279-h, which requires the MTA to establish a debarment process for contractors

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-01-19-00019-EP	..... exempt	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF			
PKR-37-19-00001-P	..... 09/10/20	Listing of state parks, parkways, recreation facilities and historic sites	To update the listing of state parks, parkways, recreation facilities and historic sites
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PAS-42-19-00008-P	..... exempt	Rates for the Sale of Power and Energy	To align rates and costs
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive, Albany, NY.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00009-P	..... exempt	Approval of a surcharge.	To allow or disallow Emerald Green Lake Louise Marie Water Company, Inc. for a surcharge.
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00010-P	..... exempt	Lightened and incidental regulation of a 55 MW electric and steam generating facility.	Consider the lightened and incidental regulation of a 55 MW electric and steam generating facility.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-14-17-00017-P	..... exempt	Petition for Full-Scale Deployment of AMI and to Establish an AMI Surcharge.	To consider the petition for Full-Scale Deployment of AMI and to Establish an AMI Surcharge.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-23-17-00022-P	..... exempt	Changes in regulation of ESCOs, including restrictions on or prohibitions of marketing or offering certain products or services.	To ensure consumer protection for ESCO customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-37-17-00006-P	..... exempt	Petition to submeter electricity.	To consider the petition of ACC OP (Park Point SU) LLC to submeter electricity at 417 Comstock Avenue, Syracuse, New York.
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*PSC-40-17-00006-P	..... exempt	The aggregation of electric service for the Empire State Plaza and the Sheridan Avenue Steam Plant	To consider a waiver of National Grid's tariff provision requiring all electric delivery points to be on the same premises
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report.	To consider NFGD's petition for rehearing.
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills.	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing.	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-50-17-00019-P	..... exempt	Transfer of utility property.	To consider the transfer of utility property.
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.
*PSC-50-17-00022-P	..... exempt	Data protection rules for DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00011-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-40-18-00015-P	..... exempt	Proposed rate filing to increase annual revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.
*PSC-44-18-00012-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-45-18-00004-P	..... exempt	Proposed transfer of two natural gas pipeline operating companies, and for lightened and incidental regulation	To consider transfer if there is no market power or ratepayer harm, incidental regulation, and continuing lightened regulation
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-50-18-00003-P	..... exempt	Proposed transfer of interests in an electric generating facility and dedicated natural gas pipeline	To consider the transfer of generating facility and dedicated gas pipeline if there is no market power or ratepayer harm
PSC-01-19-00004-P	..... exempt	Advanced Metering Infrastructure.	To determine whether Niagara Mohawk Power Corporation d/b/a National Grid should implement advanced metering infrastructure.
PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-01-19-00014-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-01-19-00015-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-01-19-00016-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-02-19-00014-P	..... exempt	Petition for use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
PSC-09-19-00009-P	..... exempt	Amendments to the tariff of Con Edison pertaining to interruptible gas service customers.	To consider the appropriate tariff provisions for Con Edison interruptible gas service customers.
PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.
PSC-10-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
PSC-13-19-00012-P	..... exempt	Paperless billing credit.	To provide just and reasonable rates.
PSC-15-19-00010-P	..... exempt	Tariff provisions for Interruptible and Off-Peak Firm Service Customers.	To amend certain penalties for non-compliant Interruptible and Off-Peak Firm Customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-16-19-00005-P	..... exempt	Proposed major electric delivery revenue requirement increase of approximately \$485 million (or 4.6% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-16-19-00007-P	..... exempt	Recommendation of the levelization surcharge, changes to the System Improvement Charge, and a one-year stay-out.	To address the issues in NYAW's petition dated February 25, 2019.
PSC-16-19-00008-P	..... exempt	Proposed major rate increase in Con Edison's gas delivery revenues of approximately \$210 million (or 9.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-17-19-00014-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-18-19-00010-P	..... 04/30/20	Energy efficiency programs, budgets, and targets for investor-owned utilities.	To encourage the delivery and procurement of energy efficiency by investor-owned utilities.
PSC-18-19-00011-P	..... exempt	Policies, budgets and targets for support of heat pump deployment by investor-owned utilities.	To encourage the support for heat pump deployment by investor-owned utilities.
PSC-18-19-00012-P	..... 04/30/20	Policies, budgets and targets for support of energy efficiency programs for low- and moderate-income customers.	To encourage the support of energy efficiency programs for low- and moderate-income customers by investor-owned utilities.
PSC-18-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-18-19-00015-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
PSC-19-19-00014-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 124 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 124 MW electric generating facility.
PSC-19-19-00016-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 242 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 242 MW electric generating facility.
PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
PSC-20-19-00009-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
PSC-22-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-23-19-00003-P	..... exempt	Ownership interest in poles.	To consider the transfer of ownership interest in certain poles from NYSEG to Verizon.
PSC-23-19-00005-P	..... exempt	Proposed major rate increase in SWNY's annual base revenues of approximately \$31.5 million (or 19.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00005-P	..... exempt	Non-Firm Demand Response service classes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00008-P	..... exempt	Non-Firm Demand Response service classes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-25-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-27-19-00007-P	..... exempt	Implementation of consolidated billing for distributed energy resources.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-30-19-00007-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-30-19-00008-P	..... exempt	To institute a voluntary Tier 2(B) Physical Storage Program under the DDS Program.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-30-19-00009-P	..... exempt	An Index REC procurement mechanism for Tier 1 REC procurements.	To provide a hedge against market volatility, and lower costs to both renewable generators and customers.
PSC-31-19-00011-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-31-19-00012-P	..... exempt	Purchase of renewable energy from distributed generators and energy storage systems 15 kilowatts or less.	To establish provisions to ensure safe and reliable service for all customers.
PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00014-P	..... exempt	Consideration of NYAW's Interim Implementation Plan.	To ensure NYAW improves its service to ratepayers.
PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00017-P	..... exempt	Implementation of e-DPAs.	To consider a proposal to implement e-DPAs.
PSC-32-19-00008-P	..... exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-32-19-00009-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-32-19-00010-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-32-19-00011-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
PSC-32-19-00013-P	..... exempt	Disposition of tax refunds received by New York American Water Company, Inc.	To determine the disposition of tax refunds and other related matters
PSC-33-19-00007-P	..... exempt	Transfer of street lighting facilities.	To determine whether to provide written consent for the proposed transfer of certain street lighting facilities.
PSC-33-19-00008-P	..... exempt	Pole attachment rates.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-33-19-00009-P	..... exempt	Transfer of street lighting facilities.	To determine whether to provide written consent for the proposed transfer of certain street lighting facilities.
PSC-33-19-00010-P	..... exempt	Purchase of renewable energy from new distributed generators and energy storage systems 15 kilowatts or less.	To establish provisions to ensure safe and reliable service for all customers.
PSC-33-19-00012-P	..... exempt	Limited waiver of tariff provisions for customers with PEVs under Special Provision L of the SC-1 VTOU rate.	To ensure just and reasonable rates charged to customers without undue preferences
PSC-33-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-33-19-00014-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-34-19-00015-P	..... exempt	Major electric rate filing.	To consider a proposed increase in RG&E's electric delivery revenues of approximately \$31.7 million (or 4.1% in total revenues).
PSC-34-19-00016-P	..... exempt	Major gas rate filing.	To consider a proposed increase in RG&E's gas delivery revenues of approximately \$5.8 million (or 1.4% in total revenues).
PSC-34-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-34-19-00018-P	..... exempt	Major electric rate filing.	To consider a proposed increase in NYSEG's electric delivery revenues of approximately \$156.7 million (10.4% in total revenues).
PSC-34-19-00019-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation for distributed energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-34-19-00020-P	..... exempt	Major gas rate filing.	To consider a proposed increase in NYSEG's gas delivery revenues of approximately \$6.3 million (or 1.4% in total revenues).
PSC-34-19-00021-P	..... exempt	Customer Consent to Contact.	To include a new provision establishing customer consent for the utility to contact them electronically about utility service.
PSC-35-19-00004-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-35-19-00005-P	..... exempt	Administrative costs and funding sources for the RES and ZEC programs.	To promote and maintain renewable and zero emission electric energy resources.
PSC-35-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-35-19-00007-P	..... exempt	Wireless pole attachment rate.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-35-19-00008-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-36-19-00008-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-36-19-00009-P	..... exempt	Minor rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-36-19-00010-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-36-19-00011-P	..... exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-36-19-00012-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-37-19-00004-P	..... exempt	Proposed transfer of Hopewell's assets to the Town and dissolution of the company.	To determine if transfer of the water system to the Town of East Fishkill is in the public interest.
PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-39-19-00013-P	..... exempt	Proposed revisions to Consolidated Edison's Commercial Demand Response Programs.	To consider appropriate rules regarding Commercial Demand Response Programs.
PSC-39-19-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for the period ending August 31, 2019.
PSC-39-19-00015-P	..... exempt	Amendments to the New York State Standardized Interconnection Requirements (SIR).	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-39-19-00016-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(1), (2), (2)(iv), (b)(2), 86.4(b) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-39-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-39-19-00019-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-39-19-00020-P	..... exempt	Initial Tariff Schedule, P.S.C. No. 1 - Water.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-40-19-00006-P	..... exempt	Net energy metering and VDER crediting for eligible New York Power Authority customers.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-40-19-00007-P	..... exempt	The sharing of ratepayer consumption data.	To allow for consumption based sewer billing and protect ratepayers' consumption data.
PSC-40-19-00008-P	..... exempt	Implementation of consolidated billing for distributed energy resources.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-41-19-00001-EP	..... exempt	Appointment of a temporary operator.	To ensure safe water supply through appointment of a temporary operator.
PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges.	To provide qualifying residential customers with an optional three-part rate.
PSC-41-19-00004-P	..... exempt	To consider acquiring cable television facilities and franchises of 27 municipalities from CCE I to Spectrum NE.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest.
PSC-41-19-00005-P	..... exempt	Tariff modifications to correct the calculation for the VDER Value Stack DRV.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-19-00006-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
PSC-42-19-00007-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
PSC-43-19-00014-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-43-19-00015-P	..... exempt	Modifications to the Gas Cost Factor and Daily Delivery Service Programs.	To consider a rehearing petition filed by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.
PSC-43-19-00016-P	..... exempt	Proposed rate filing to increase its semi-annual flat rate.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-45-19-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-45-19-00012-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-45-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-46-19-00007-P	..... exempt	PSC regulation 16 NYCRR 86.3(a)(1), (a)(2) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York.	To promote and maintain renewable electric energy resources.
PSC-46-19-00009-P	..... exempt	Proposed transfer of certain company property to the Incorporated Village of Sea Cliff.	To determine if the transfer of certain Company property to the Incorporated Village of Sea Cliff is in the public interest.
PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
PSC-47-19-00011-P	..... exempt	Waiver of National Grid's code of conduct to allow for use of its name.	To determine if it is in the public interest to allow for the use of National Grid's name in the weatherization program.
PSC-47-19-00012-P	..... exempt	Transfer of street lighting facilities to the Village of Cayuga Heights.	To consider whether the transfer of street lighting facilities to the Village of Cayuga Heights is in the public interest.
PSC-47-19-00013-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-47-19-00014-P	..... exempt	Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest.	To consider whether a tariff waiver and the proposed terms of a service agreement are in the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-47-19-00015-P	..... exempt	Customer Consent to Contact.	To include a new provision establishing customer consent for the utility to contact them electronically about utility service.
PSC-47-19-00016-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
STATE, DEPARTMENT OF			
DOS-27-19-00014-P	..... 09/04/20	New York State Uniform Fire Prevention and Building Code (the Uniform Code)	To repeal the existing Uniform Code and adopt a new Uniform Code and to make conforming changes to 19 NYCRR Parts 1264 and 1265.
DOS-27-19-00015-P	..... 09/04/20	The State Energy Conservation Construction Code (the "Energy Code").	To repeal the existing Energy Code and to adopt a new, updated Energy Code.
DOS-40-19-00001-P	..... 10/01/20	Appraisal Standards	To adopt the 2020-2021 edition of the Uniform Standards of Professional Appraisal Practice
DOS-42-19-00001-P	..... 10/15/20	Real estate advertisements	To update current regulations concerning real estate advertisements
STATE UNIVERSITY OF NEW YORK			
SUN-36-19-00013-P	..... 09/03/20	College Fees	To increase the college fee charged at State-operated campuses, excluding the four University Centers.
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-40-19-00009-P	..... 10/01/20	New York State and City of Yonkers withholding tables and other methods	To provide current New York State and City of Yonkers withholding tables and other methods
TAF-47-19-00010-P	..... exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.	To set the sales tax component and the composite rate per gallon for the period January 1, 2020 through March 31, 2020.
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-14-19-00007-P	..... 04/02/20	Abandonment of requests for fair hearings	To require the issuance of letters to appellants who fail to appear at scheduled fair hearings involving Medical Assistance, also known as Medicaid, advising them how to request the rescheduling of such fair hearings
TDA-19-19-00007-P	..... 05/07/20	Adult-Care Facilities and Shelters for Adults	To update State regulations pertaining to general provisions, inspections and enforcement, and shelters for adults
TDA-19-19-00008-P	..... 05/07/20	Shelters for Families	To update State regulations pertaining to shelters for families
TDA-19-19-00010-P	..... 05/07/20	Elimination of finger imaging requirement for public assistance applicants and recipients	To update State regulations to align public assistance programs with other State benefit programs regarding identification verification requirements

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-46-19-00006-P	..... 11/12/20	Limits on executive compensation	To remove requirements related to private funding from the \$199, 000 per annum limit on executive compensation and to make corresponding technical updates
VICTIM SERVICES, OFFICE OF			
OVS-24-19-00001-EP	..... 06/11/20	Conduct contributing related to burial awards	Adopt rules necessary as the result of chapter 494 of the Laws of 2018, when considering the victim's own conduct
OVS-36-19-00007-P	..... 09/03/20	Limits on administrative expenses and executive compensation.	To codify the determination made in the Matter of Leading Age NY, Inc v. Shah (2018), striking a portion of the rule.
WORKERS' COMPENSATION BOARD			
WCB-27-19-00005-P	..... 07/02/20	Medical Fee Schedules	Add new providers to the fee schedule
WCB-31-19-00018-P	..... 07/30/20	Medical Treatment Guidelines	Add guidelines for treatment of hip and groin, foot and ankle, elbow and occupational interstitial lung disease
WCB-32-19-00001-P	..... 08/06/20	Updating the prescription drug formulary	To add drugs to the prescription drug formulary in response to continuous feedback
WCB-37-19-00002-P	..... 09/10/20	Applications for Reopenings	Clarify the process for reopening a case that has been previously closed
WCB-45-19-00010-P	..... 11/05/20	Resolution of medical billing disputes	Incorporate the 2019 changes to WCL 13-g into existing regulations.
WCB-47-19-00004-EP	..... 11/19/20	Updating the prescription drug formulary	To update formulary and add special consideration guidance for drugs not included in the MTGs

SECURITIES OFFERINGS

STATE NOTICES

Published pursuant to provisions of General Business Law
[Art. 23-A, § 359-e(2)]

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State or country in which incorporated — Delaware

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BCE-Mach Holdings II LLC
1201 Louisiana St., Suite 3308, Houston, TX 77002
Partnership — Bayou City Energy Management LLC

Bricktowne Acquisitions, LLC
400 S. Mccaslin Blvd., Suite 207, Louisville, CO 80027
State or country in which incorporated — Delaware

Cannae Rue Equity LLC
600 California St., Fl. 11, San Francisco, CA 94108
State or country in which incorporated — Delaware

Chai Angels LLC
19 Roselle Ave., Pleasantville, NY 10570
State or country in which incorporated — New York limited liability company

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Clade Funding, LLC
c/o Clade Management, LLC, 524 Broadway, 7th Fl., New York, NY 10012

Crawford Lake Enhanced Onshore Fund, LP
211 Boulevard of the Americas, Suite 500, Lakewood, NJ 08701
Partnership — Crawford Lake GP, LLC

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State or country in which incorporated — North Carolina

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16 Chapin Rd., Suite 912, Pine Brook, NJ 07058
State or country in which incorporated — Delaware

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4910 Merrick Rd., #33, Massapequa Park, NY 11762-3827

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4991 New Design Rd., Frederick, MD 21703
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FP Capital US, LP
100 Crosby St., #403, New York, NY 10012
Partnership — FP Capital GP, LLC

Hara Global Capital Fund LP
300 Park Ave., 12th Fl., Wework, New York, NY 10022
Partnership — Hara Global Capital GP LLC

Herbert J. Sims & Co, Inc.
2150 Post Rd., Suite 301, Fairfield, CT 06824
State or country in which incorporated — Delaware

IK Minority Partnership I Fund No. 1 SCSp
20 boulevard Royal, L- 2449 Luxembourg
Partnership — IK Minority Partnership I Fund GP S.a r.l.

Investment Managers Series Trust II
235 W. Galena St., Milwaukee, WI 53212
State or country in which incorporated — Delaware

Janchor Partners Opportunities Offshore Fund II L.P.
c/o Janchor Partners Limited, 1608 One Exchange Sq., Central, Hong Kong
Partnership — Janchor Partners GP II Limited

Kotak Mahindra, Inc.
69 Lexington Ave., 28th Fl., New York, NY 10017
State or country in which incorporated — Delaware

LCC Investment, LLC
5775 Wayzata Blvd., Suite 700, Minneapolis, MN 55416
State or country in which incorporated — Delaware

Mill Green Opportunity Fund VI, LLC
c/o Mill Green Partners, LLC, 3284 Northside Pkwy., Suite 300, Atlanta, GA 30327
State or country in which incorporated — Delaware

NAVV Systems, Inc.
440 Burroughs St., Suite 152, Detroit, MI 48202
State or country in which incorporated — Delaware

NexPoint Texas Multifamily Portfolio DST
300 Crescent Court, Suite 700, Dallas, TX 75201
State or country in which incorporated — Delaware

No Borders, Inc.
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State or country in which incorporated — Nevada

North Capital Private Securities Corporation
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State or country in which incorporated — Delaware

North Hudson Resource Partners Fund I LP
600 Travis St., Suite 6290, Houston, TX 77002
Partnership — North Hudson Resource Partners Fund I GP LP

Northwoods Capital Equity Holdings III, L.P.
c/o Angleo, Gordon & Co., L.P., 245 Park Ave., New York, NY 10167
Partnership — Northwoods Capital Equity Holdings III GP, LLC

Panola-Acworth, LLC
c/o Rothenberg-Rosenfield, Inc., 505 Park Ave., Suite 1702, New York, NY 10022

Par Milford Inv II LLC
45 Knollwood Rd., Suite 305, Elmsford, NY 10523
State or country in which incorporated — Connecticut

Passco Capital, Inc.
2050 Main St., Suite 650, Irvine, CA 92614
State or country in which incorporated — California

Peachtree PC Advisors, LLC
3500 Lenox Rd., Suite 625, Atlanta, GA 30326
State or country in which incorporated — Georgia limited liability company

Phoenix MSA Multifamily DST
2901 Butterfield Rd., Oak Brook, IL 60523
State or country in which incorporated — Delaware

Plouton Datacenter I, Inc.
c/o Sugg & Paracuellos, LLP, 19100 Von Karman Ave., Suite 400, Irvine, CA 92612
State or country in which incorporated — Delaware

QS Global Mid-Market Opportunities US SLP
Three, Blvd. Royal, Luxembourg L-2449
Partnership — QS PE Fund GP

Quantlab brokerage, LLC
Three Greenway Plaza, Suite 200, Houston, TX 77046

Rumi Partners LP
401 Park Ave. S, Fl. 10, New York, NY 10016
Partnership — Rumi Capital LLC

Sandler O'Neill & Partners, L.P.
1251 Avenue of the Americas, 6th Fl., New York, NY 10020
Partnership — Sandler O'Neill & Partners Corp.

SE Orlando Hotel Investors, LLC
350 N. LaSalle St., Suite 800, Chicago, IL 60654
State or country in which incorporated — Delaware limited liability company

Serenity Investment Feeder Fund Ltd.
c/o Maples Corporate Services Limited, P.O. Box 309, Ugland House, Grand Cayman KY1-1104, Cayman Islands
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SFM Secured Credit II LLC
160 W. Canyon Crest Rd., Suite 2, Alpine, UT 84004
State or country in which incorporated — Delaware

SI Securities, LLC
116 W. Houston St., 6th Fl., New York, NY 10012
State or country in which incorporated — New York

Spyglass-Midtown Nashville, LLC
20 Marks Rd., Riverside, CT 06878

Stonehill Strategic Hotel Credit Opportunity Fund III, L.P.
3500 Lenox Rd., Suite 625, Atlanta, GA 30326
Partnership — SS Hotel Credit Opportunity Fund III, LLC

Suez SA
Tour CB 21, 16 Place de L'Iris, 92040 Paris La Defense Cedex, France
State or country in which incorporated — France

Texas Securities, Inc.
4024 Nazarene Dr., Suite B, Carrollton, TX 75010
State or country in which incorporated — Texas

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Tour Carpe Diem - Place des Corolles - Esplanade Nord - 92400 Courtbevoie, France
State or country in which incorporated — France

TZP Group Holdings, L.P.
Seven Times Square, Suite 4307, New York, NY 10036
Partnership — TZP Group Holdings GP, LLC

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c/o Mandel Group, Inc., 330 E. Kilbourn Ave., Suite 600 S, Milwaukee, WI 53202
State or country in which incorporated — Wisconsin

Vetnos LLC
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We Plantation Oaks LLC
12 College Rd., Monsey, NY 10952
State or country in which incorporated — Delaware

Willows Apts JV LLC, The
One World Trade Center, Suite 8500, New York, NY 10007

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

REHABILITATE ELEVATORS

Upstate Medical Center
Syracuse, Onondaga County

Sealed bids for Project Nos. Q1756-C, Q1756-E, Q1756-H and Q1756-U, comprising separate contracts for Construction Work, Electrical Work, HVAC Work, and Elevator Work, Rehabilitate Elevators, 9, 10 & 11, Upstate Medical Center, 750 E. Adams Street, Syracuse (Onondaga County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Upstate Medical Center, until 2:00 p.m. on Wednesday, November 20th, 2019 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of \$10,000 for C, \$16,700 for E, \$3,700 for H, and \$54,500 for U.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$100,000 and \$250,000 for C, between \$100,000 and \$250,000 for E, between \$25,000 and \$50,000 for H, and between \$1,000,000 and \$2,000,000 for U.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 917 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the

project area will be at 10:00 a.m. on November 7, 2019 at the Upstate Medical University, 750 East Adams Street in Syracuse NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Wayne Brennan (315-464-7374) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS 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 OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation for Construction Work and OGS hereby establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation for Electrical Work (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj*, Deputy Director
OGS - Design & Construction Group

REHABILITATE BATHROOMS/SHOWERS Green Haven Correctional Facility Stormville, Dutchess County

Sealed bids for Project Nos. 45054-C, 45054-H, 45054-P, 45054-E, comprising separate contracts for Construction Work, HVAC Work, Plumbing Work, and Electrical Work, Rehabilitate Bathrooms & Showers, Buildings 2, 15 & 22, Green Haven Correctional Facility,

Route 216, Stormville, (Dutchess County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Corrections and Community Supervision, until 2:00 p.m. on Wednesday, November 20, 2019, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of \$55,900 for C, \$24,900 for H, \$52,600 for P, and \$17,900 for E.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$1,000,000 and \$2,000,000 for C, between \$250,000 and \$500,000 for H, between \$1,000,000 and \$2,000,000 for P, and between \$250,000 and \$500,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is 1025 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 9:00 a.m. on November 8, 2019 at Green Haven Correctional Facility, OGS Field Office, Route 216, Stormville, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search.

Phone the office of Shannon Landolf, (845) 431-5935 a minimum of 72 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS 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 OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE")

participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work and 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) for HVAC and Plumbing Work. The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj, Deputy Director*
OGS - Design & Construction Group

NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

Department of Labor

REQUEST FOR APPLICATIONS

Consolidated Funding Applications for Workforce Development Initiatives

Existing Employee Training (CFA WDI - EET)

Issued on

May 8, 2019

[Amended July 11, 2019 and October 29, 2019]

New York State Department of Labor

Division of Employment and Workforce Solutions

Harriman Office Campus

Building 12, Room 440

Albany NY, 12240

Submission Deadline:

Ongoing

The New York State Department of Labor is an Equal Opportunity Employer. Auxiliary aids and services are available upon request to individuals with disabilities.

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I. Funding Opportunity Description

A. Purpose

The purpose of this Consolidated Funding Application (CFA) for Workforce Development Initiatives (CFA WDI) Existing Employee Training (EET) Request for Applications (RFA) is to provide occupational skills training, commensurate with Regional Economic Development Council (REDC) priorities, to existing employees who are in low and middle-skills occupations leading to job advancement and retention.

B. Background

Building on the eight-year success of the CFA for economic development, Governor Cuomo established this new CFA WDI for workforce development initiatives to support strategic regional efforts that meet businesses' short-term workforce needs, improve regional talent pipelines, expand apprenticeships, and address the long-term needs of expanding industries. This new investment strategy focuses on emerging fields such as clean energy, health technology, and computer science, that have a growing demand for jobs. Funding available under this strategy will also support efforts to improve the economic security of women, youth, and other populations that face significant barriers to career advancement.

As part of this comprehensive workforce development initiative, the New York State Department of Labor (NYSDOL) is offering three parallel funding opportunity programs through the CFA portal; EET, New Hire Training (NHT), and Unemployed/Underemployed Worker Training (UWT). Applicants may apply for one or more funding opportunity programs as part of this comprehensive approach. Applicants should apply for CFA WDI program(s) of interest via one submission. In doing this, Applicants will only have to answer the CFA portal's basic questions, such as contact information and project location, once for all applications.

Regional Economic Development Councils (REDCs)

The REDC initiative is a transformative approach to New York State (NYS) investment and economic development. In 2011, Governor Cuomo established 10 Regional Councils to develop long-term strategic plans for economic growth in their regions. The Councils are public-private partnerships made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations.

The 10 regions are based on existing Empire State Development (ESD) and NYSDOL regional boundaries, which allows for maximum efficiency and the ability to capitalize on existing programs, synergies and relationships. Each REDC considers its region's individual strengths and builds upon existing assets which make them unique in order to develop regional strategies and projects that demonstrate the greatest potential for job creation and economic opportunity.

The REDC initiative uses the CFA as the primary mechanism to fund projects that align with regional and NYS priorities.

II. Award Information

A. Funding

Under this RFA, up to \$10 million (of which \$1 million is federal Workforce Innovation and Opportunity Act (WIOA) funding and \$9 million is NYS reemployment services funding) is being made available to provide occupational skills training courses commensurate with REDC priorities for existing employees of the Applicant who are currently employed in low or middle-skills occupations, as defined in the Program Services Section (III.C.) and Section VII of this RFA. Additional funding may be made available at a later date, depending on program need and the continued availability of funding. Any potential amendments to this RFA, including additional funding being made available, will be posted on NYSDOL's website and in the NYS Contract Reporter. Applications will be accepted and reviewed on an ongoing basis at any time while this funding opportunity is available. Unsuccessful Applicants have the option to modify their application and re-submit, if funding and time remain.

EET awards may not exceed \$100,000 for Applicants with 2-50 employees; \$200,000 for Applicants with 51-100 employees; or \$300,000 for Applicants with 101 or more employees. Applications that request more than the maximum funding amount will be reviewed and scored by NYSDOL. If the application is awardable, NYSDOL will proportionately reduce the project funding at the time of award to fit within the maximum funding amount. Applications unable to remain viable with the reduced funding will not proceed to contract execution. Therefore, it is highly recommended that Applicants keep the cost and scope of applications within the maximum award amount.

Applicants must draft each of their CFA funding requests as stand-alone occupational skills training. The application must not be based in whole or in part on the assumption they will receive complementary funding from other CFA or CFA WDI programs or agencies. The amount of funding requested of NYSDOL must be calculated based on the number of existing employees to be trained. There is no minimum award amount per trainee under the EET Program.

It is expected the Applicant will conduct an assessment of training needs of the existing employees prior to submitting an application. If the Applicant reduces the number of individuals to be trained at any time prior to or after an award is issued, the requested level of funding will be proportionately reduced by NYSDOL.

All awards are subject to funding availability.

B. Use of Funds

The EET Program funds occupational skills training for existing employees of the Applicant who are currently employed in low or middle-skills occupations, as defined in the Program Services Section (III.C.) and Section VII of this RFA. There is no maximum cost per trainee under this RFA; Applicants may request as much funding as necessary per trainee within the applicable maximum award amount. Training funded through the EET program is intended:

- For existing employees of private for-profit or not-for-profit (NFP) entities; and
- To provide occupational skills training(s) to employee(s) in low or middle-skills occupations (defined as Job Zones 1, 2 or 3 as described in Sections III.C. and VII of this RFA).

1. Allowable costs under the EET program include the following:

- The costs of outside vendors or in-house trainers to provide on-site or off-site classroom training. Training provided by in-house staff may not be billed at a per trainee rate. The EET program will only reimburse the actual hourly wage rate (salary only, no fringe benefits) of the in-house trainer. Training by the in-house staff must be for a minimum of two trainees per course;
- Textbooks or training materials directly associated with the training;
- Distance learning fees (i.e., the fee for the training slot and software required to deliver the training program); and
- Credentialing exam fees.

Funds may be used to enlist the services of a training provider to deliver occupational skills training to existing, employed workers. Fees associated with the provision of training may not be charged to the trainees served under this EET funding opportunity. Trainees cannot contribute to the cost of the training(s).

For those Applicants also applying for other NYSDOL CFA WDI funding opportunities in addition to EET funds, please note funds cannot be combined for use on the same trainees. Each group of trainees must remain separate and distinct and be trained solely under one NYSDOL CFA program.

Training may take place outside of NYS; however, trainees must work in NYS upon completion of the training. Travel and salary costs for any trainings taking place outside of NYS must be paid by the Applicant using non-CFA funds. The Applicant must also provide adequate justification for any training that takes place outside of NYS. Training must take place during regular business hours and trainees must be paid wages at no less than their normal rate of pay while attending training. Applications wherein the employees attend training on their own time, whether voluntarily or involuntarily, will be rejected. Training can also be a distance learning course.

For occupational skills training provided by outside vendors or sub-contractors, no minimum number of trainees is required and the cost will be reimbursed based either on a per trainee or the overall trainer cost. However, one-on-one training cannot be paid for through this RFA. For example, a single trainee cannot be trained by an in-house trainer as the sole trainee, but the RFA can pay for the tuition costs of a single trainee attending a class with other individuals who are not subject to this RFA.

Applicants not utilizing their own in-house trainers are encouraged to enter into contracts with institutions of higher education, such as community colleges, or other eligible training providers to facilitate the training of multiple individuals in high-demand occupations. NYSDOL encourages applicants to utilize training providers on the Eligible Training Providers List (ETPL), available at <https://applications.labor.ny.gov/ETPL/>, but this is not a requirement. In addition, NYSDOL will assist any applicant seeking to register a proposed training program on the ETPL. For assistance, please email ETP@labor.ny.gov.

All proposed expenditures must be reasonable, necessary and clearly related to the purposes and activities of the project as described in the Program Design ([Section V.C.](#)). During the contracting process, NYSDOL reserves the right to ask for justification of proposed expenditures and cost per trainee.

2. Restrictions on Types of Trainings

EET funding will only pay for the eligible costs identified in the Use of Funds Section (II.B.) of this RFA. The following types of trainings do not constitute occupational skills training(s) for this RFA and are not allowed:

- Trainings which begin or occur prior to the contract start date. For additional details regarding the start date of trainings, please see Section VI.B (Payment).
- One-on-one training;
- Human Resources training; Basic Safety training; Sexual Harassment training; Diversity training; or Orientation training (the provision of these types of training is a normal cost of doing business);
- Stand-alone remedial training (including “soft skills”, such as communication, team development, conflict resolution);
- Training required as part of a federal, NYS or local government mandate (i.e., OSHA);
- Training provided to independent contractors or contracted employees;
- Stand-alone Microsoft Office applications (i.e., Word, Excel, PowerPoint, etc.) and other basic office software applications (i.e., QuickBooks, Adobe, etc.). Note: This refers to stand alone courses in individual applications; it does not refer to larger certifications such as Microsoft Office Specialist;
- English as a Second Language (ESL) training; and
- Any other trainings deemed inappropriate by NYSDOL, such as training that does not result in a transferable skill, activities determined to be business consulting rather than training (i.e., coaching, reinforcement, etc.) and any other training(s) that do not meet the intent of the RFA.

If an Applicant is unsure about restricted trainings, it should consider asking specific questions before the Questions Deadline identified in Section IV.A. of this RFA and listed in the RFA Timetable (Section IV.F.).

3. Restrictions on the Use of Funds

EET funding will only pay for the costs listed in the Use of Funds Section (II.B.). It will not pay for any of the following items:

- Training of undocumented workers;
- Hardware that may be required to access online or distance learning instruction;
- The acquisition, construction, or renovation of buildings or other real estate;
- The purchase of any equipment;
- The purchase of operational software not directly associated with the training (the determination of being directly associated with the training is at NYSDOL’s discretion);
- Administrative costs, direct and indirect. This RFA does not involve a sub-recipient relationship between the Applicant and NYSDOL, which makes payment of indirect costs unwarranted in this situation;
- Other employee coverage while trainee attends training;

- Support services such as child care, transportation, lodging, and meals for the trainees (any supportive services provided must be funded through the local Career Center);
- Transportation beyond 550 miles, lodging, and meal costs for relocated in-house or subcontracted trainers for the provision of the proposed training program;
- Advertising;
- Entertainment;
- Interest costs incurred by provider agencies;
- Costs of organized fundraising;
- Conferences, seminars, or payment of fees associated with attendance at seminars, conferences, or meetings of professional organizations;
- Start-up costs, curriculum development, and assessment costs on the part of the Applicant;
- Purchase of videos; and
- Any other costs deemed inappropriate by NYSDOL and that do not meet the intent of the RFA.

C. Leveraged Funding Requirement

Applicants funded under the EET RFA are required to pay for a portion of the costs of their training program using leveraged funds. The level at which Applicants are required to contribute is based on the Applicant's size, in terms of the number of employees, at the time of application submission. The amount the Applicant is required to contribute is at least:

- 10% for Applicants with 50 or less employees
- 25% for Applicants with 51-100 employees
- 50% for Applicants with more than 100 employees

It is important to note that the percentage that Applicants are required to contribute is based on the total project cost, not the requested amount from the EET RFA.

Wages paid to trainees while participating in training may be used toward satisfying the leveraged funding requirement.

Leveraged funding, based on the number of Applicant employees, must be indicated in the CFA portal budget table described in [Section V.C.4](#) of this RFA and the Detailed Budget Attachment (DBA).

Applications that do not include the required amount of leveraged funding in their budget documents will be considered non-responsive and will not be awarded.

D. Contracts

The contract start date for all contracts resulting from this solicitation may be no earlier than the date of the award letter issued by NYSDOL, and no later than six (6) months after the date of the award letter. Any training that begins or is paid for prior to the contract start date will fall outside the contract period and be ineligible for reimbursement. Additionally, any training provided after the contract end date will fall outside the contract period and will be ineligible for reimbursement.

After NYSDOL issues an award letter, the award must go through a contract development and contract execution process and ends with the final execution of the contract. Therefore, if an Applicant chooses a contract start date that begins prior to contract execution, the Applicant will be operating at risk for any activities performed prior to the date of final execution of the contract.

Contracts resulting from this solicitation will be awarded for a period of up to one year. Applicants must include only the training opportunities that can be reasonably accomplished within a one-year time period. Under extenuating circumstances, limited no-cost contract extensions may be approved at NYSDOL's discretion. The length of the extension is dependent on the original contract duration; however, under no circumstances may the length of the contract plus the extension exceed a total of fifteen (15) months.

Once a contract is developed and formally executed, the successful Applicant will be considered a NYSDOL Contractor. Funds will be released to the Contractor on a cost reimbursable basis. This means that a Contractor must first pay the expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on the prescribed forms before payment is made. For cost reimbursements to be approved, certain records must be kept and specific documents submitted. Additional details on reimbursement and payment are outlined in the Payment Section (VI.B.) of this RFA.

Please note that NYSDOL must adhere to New York State Prompt Contracting Law timeframes for executing contracts awarded to not-for-profits entities. This Law provides for interest payments when contract payments are late due to untimely processing of contracts. However, if there are delays in the contract process on the part of the contractor, Suspension of Prompt Contracting timeframe letters may be issued to render the contractor ineligible for interest for the number of days of delay.

In addition, the United States Department of Labor (USDOL) or NYSDOL may conduct an independent evaluation of the outcomes and benefits of EET funding. By accepting an EET Program award under this RFA, the Applicant agrees to participate in any such evaluation.

E. Contracting Process

In keeping with the Governor's promise to reform NYS' grant contracting process, NYS has established a standardized statewide grant contracting system called the Grants Gateway, which is designed to facilitate prompt contracting.

All Applicants are required to register in this system in order to enter into a contract with NYS. All Applicants must log-in to the Grants Gateway website at <https://grantsmanagement.ny.gov> and follow the instructions to complete the registration. **The registration form must be signed, notarized and mailed to Gateway Administrators. Plan accordingly to avoid potential delays in applying for upcoming grant opportunities.**

NFP organizations must take the additional step of prequalifying by completing a basic profile and storing organizational documents. **Both registration and prequalification must be completed by NFP organizations prior to submitting an application.** Failure to do so will mean that their application will not be reviewed. NFP organizations will be able to submit their responses online, and, once reviewed and approved by a NYS agency prequalification specialist, the NFP organization will be able to submit an application. All information is stored in a virtual, secured vault. NFP organizations must keep their information current throughout a three-year period, including uploading annual documents (990, etc.).

For additional information on registration and prequalification, please log on to the Grants Gateway website at <https://grantsmanagement.ny.gov> or www.grantsmanagement.ny.gov/resources-grant-applicants. For additional technical assistance with the Grants Gateway website, please note:

- Hours of Operation: Monday through Friday, 8:00 A.M. to 8:00 P.M. NYS Time.
- Phone Number: 1-800-820-1890
- Email: grantsgateway@its.ny.gov.

F. NYSDOL's Responsibilities

NYSDOL will oversee implementation of the contract(s) resulting from this RFA, including regular monitoring of implementation and performance of the contract(s).

Funding for the activities outlined in this RFA will come, in part, from funds available under WIOA and is subject to NYS and Federal legislative appropriation. NYSDOL staff will ensure accurate and timely reporting of program outcomes as well as Federal evaluation documentation as required by USDOL.

G. Applicant Requirements

By submission of an application in response to this solicitation, Applicants agree with the Minimum Threshold Requirements Section (V.C.1.) and all of the terms and conditions set forth in the attachments to this RFA.

Applicants must comply with the Combined Terms and Conditions (CTC), which will be incorporated into the Master Contract (MC) of successful Applicants. These terms and conditions are included with no sections to be filled in. The process of downloading and uploading the Combined Terms and Conditions document confirms for NYSDOL that the Applicant has received, reviewed, and accepts the content of the document.

The Applicant shall be responsible for any costs incurred by the Applicant in the application preparation, or in activities related to the review of this application.

H. Participation Requirements

Please refer to Section VIII (Attachments and Appendices) for further information on these participation requirements.

1. Business Participation Opportunities for MWBEs

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

a) Contract Goals

For purposes of this solicitation, NYSDOL hereby establishes an overall goal of **30%** for MWBE participation, **15%** for NYS certified minority-owned business enterprises ("MBE") participation and **15%** for NYS certified women-owned business enterprises ("WBE") participation (based on the current availability of MBEs and WBEs). A Contractor awarded funds from this RFA must document its good

faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the contract. To that end, by submitting a response to this RFA, the Applicant agrees that NYSDOL may withhold payment pursuant to any contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how NYSDOL will evaluate a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

The Applicant 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% of the total value of the contract.

In accordance with 5 NYCRR §142.13, the Contractor 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 NYSDOL 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 bid or proposal, the Applicant agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the NYS Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Applicant may arrange to provide such evidence via a non-electronic method by contacting:

NYSDOL
Purchase and Contracts, MWBE Administrator
State Campus
Building 12, Room 454
Albany, NY 12240
518-474-2678

b) MWBE Utilization Plan (MWBE 100, MWBE-4)

An Applicant will be required to submit the MWBE Utilization Plan with its application as evidence of compliance with the foregoing. 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 NYSDOL for review and approval.

NYSDOL will review the submitted MWBE Utilization Plan and advise the Applicant of acceptance or issue a notice of deficiency within 30 days of receipt.

If a notice of deficiency is issued, the Applicant will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to NYSDOL, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by NYSDOL to be inadequate, NYSDOL shall notify the Applicant and direct the Applicant 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 application.

NYSDOL may disqualify an Application as being non-responsive under the following circumstances:

- If an Applicant fails to submit a MWBE Utilization Plan (MWBE 100, [MWBE-4](#));
- If an Applicant fails to submit a written remedy to a notice of deficiency;
- If an Applicant fails to submit a MWBE 101, Request for Waiver (MWBE 101, [MWBE-5](#)); and/or
- If NYSDOL determines that the Applicant has failed to document good faith efforts.

The Contractor is required to make good faith attempts to utilize 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 subsequent to contract award may be made at any time during the term of the contract to NYSDOL, but must be made prior to the submission of a request for final payment on the contract.

The Contractor will be required to submit a MWBE Quarterly Compliance Report (MWBE 105, [MWBE-6](#)) to NYSDOL, 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.

2. Equal Employment Opportunity Staffing Plan

An Applicant will be required to submit Equal Employment Opportunity Staffing Plan (EEO 100, [MWBE-2](#)) with its application as evidence of compliance with the foregoing.

By submission of an application in response to this solicitation, the Applicant agrees with all of the terms and conditions of the Master Contract ([MC](#)) and the Combined Terms and Conditions, specifically Section VI.J. ([CTC](#)). Contractors are 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 contractor, 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 NYS.

The Applicant will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement ([MWBE-1](#)) to NYSDOL with its application.

If awarded a contract, Applicants shall submit a Workforce Utilization Report (EEO 101, [MWBE-3](#)) and shall require each of its subcontractors to submit a Workforce Utilization Report, in such format as shall be required by NYSDOL on a quarterly basis during the term of the contract.

Pursuant to Executive Order #162, Contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the EEO 101 ([MWBE-3](#)) form on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other NYS 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 NYS 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.

3. Participation Opportunities for NYS SDVOB

Article 17-B of the NYS Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into NYS' economy. NYSDOL recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of NYSDOL contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in NYS, Applicants are expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

a) Contract Goals

NYSDOL hereby establishes an overall goal of **6%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Applicant/Contractor should reference the directory of NYS Certified SDVOBs found at: <https://online.ogs.ny.gov/SDVOB/search>. Questions regarding compliance with SDVOB participation goals should be directed to NYSDOL, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240; Email: Labor.sm.SDVOBAdmin@labor.ny.gov; Phone: 518-474-2678. Additionally, following contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the contract.

Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the contract (see Section II.H.3.d. below).

b) SDVOB Utilization Plan (SDVOB 100, SDVOB-1)

In accordance with 9 NYCRR § 252.2(i), Applicants are required to submit a completed SDVOB Utilization Plan with their applications.

The Utilization Plan shall list the SDVOBs that the applicant intends to use to perform the contract, a description of the work the Applicant intends the SDVOB to perform to meet the goals on the contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of contract work the SDVOB will perform. By signing the Utilization Plan, the Applicant acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future applications, and/or withholding of payments. Any modifications or changes to the agreed participation

by SDVOBs after the contract award and during the term of the contract must be reported on a revised SDVOB Utilization Plan and submitted to NYSDOL.

NYSDOL will review the submitted SDVOB Utilization Plan and advise the Applicant of NYSDOL's acceptance or issue a notice of deficiency within 20 days of receipt.

If a notice of deficiency is issued, the contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to NYSDOL a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by NYSDOL to be inadequate, NYSDOL shall notify the contractor and direct the contractor to submit, within five business days of notification by NYSDOL, a request for a partial or total waiver of SDVOB participation goals (SDVOB 200, SDVOB-3). Failure to file the waiver form in a timely manner may be grounds for disqualification of the application.

NYSDOL may disqualify an Applicant's application as being non-responsive under the following circumstances:

- If an Applicant fails to submit a SDVOB Utilization Plan (SDVOB 100, SDVOB-1);
- If an Applicant fails to submit a written remedy to a notice of deficiency;
- If an Applicant fails to submit a request for waiver (SDVOB 200, SDVOB-3); and/or
- If NYSDOL determines that the Applicant failed to document good faith efforts.

If awarded a contract, contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the contract pursuant to the prescribed SDVOB contract goals set forth above.

Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the contract. Upon the occurrence of such a material breach, NYSDOL shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

c) Request for Waiver (SDVOB 200, SDVOB-3)

Prior to submission of a request for a partial or total waiver, Applicants may speak to the SDVOB Administrator at NYSDOL for guidance.

In accordance with 9 NYCRR § 252.2(m), an Applicant that is able to document good faith efforts to meet the goal requirements, as set forth in section II(H)(3)(d) below, may submit a request for a partial or total waiver on Form SDVOB 200 (SDVOB-3), accompanied by supporting documentation. An Applicant may submit the request for waiver at the same time it submits its SDVOB Utilization Plan (SDVOB-1). If a request for waiver is submitted with the SDVOB Utilization Plan (SDVOB-1) and is not accepted by NYSDOL at that time, the provisions of sections II(H)(3)(C-E) of this RFA will apply. If the documentation included with the Applicant's waiver request is complete, NYSDOL shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

The contractor is required to make good faith attempts to utilize the SDVOBs identified within its SDVOB Utilization Plan (SDVOB-1) during the performance of the contract. Requests for a partial or total waiver of established goal requirements subsequent to contract award may be made at any time during the

term of the contract to NYSDOL, but must be made prior to the submission of a request for final payment on the contract.

If NYSDOL, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101, SDVOB-2) determines that the contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regard to such non-compliance, NYSDOL may issue a notice of deficiency to the contractor. The contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to NYSDOL, Purchase and Contracts, SDVOB Administrator, State Campus, Building 12, Room 454, Albany, NY 12240. Email: labor.sm.SDVOBAdmin@labor.ny.gov.

d) Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), contractors must document their good faith efforts toward utilizing SDVOBs on the contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- Copies of solicitations to SDVOBs and any responses thereto.
- Explanation of the specific reasons each SDVOB that responded to contractors' solicitation was not selected.
- Dates of any pre-application, pre-award or other meetings attended by contractor, if any, scheduled by NYSDOL with certified SDVOBs whom NYSDOL determined were capable of fulfilling the SDVOB goals set in the contract.
- Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- Other information deemed relevant to the waiver request.

e) Monthly SDVOB Contractor Compliance Report (SDVOB 101, SDVOB-2)

In accordance with 9 NYCRR § 252.2(q), the contractor is required to report Monthly SDVOB Contractor Compliance Report to NYSDOL during the term of the contract for the preceding month's activity, documenting progress made towards achieving the contract SDVOB goals. This information must be submitted using form SDVOB 101 (SDVOB-2) available on NYSDOL's website and should be completed by the contractor and submitted to NYSDOL, by the 10th day of each month during the term of the contract, for the preceding month's activity to: NYSDOL, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240. Email: Labor.sm.SDVOBAdmin@labor.ny.gov; Phone: 518-474-2678.

f) Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the contract, shall be found to have breached the contract and contractor shall pay damages as set forth therein.

III. Eligibility Information

A. Applicant Eligibility

Eligible Applicants for EET funding include: for-profit entities, including corporations, LLCs and LLPs; and private sector NFP entities, which:

- Need occupational skills training course(s), which can be completed in one year or less, in order for the employees in low and middle-skills occupations to attain or retain positions in middle-skills occupations. For this RFA, the skill level of occupations will be determined based on Job Zones of occupations as listed in the Occupational Information Network (O*NET). For details on the skill level of occupations, see the Program Services Section (III.C.) of this RFA;
- Have two or more employees or the equivalent of two full-time employees. Principals of corporations and owners of businesses such as sole proprietors or partners in partnerships, are not considered to be employees for this eligibility requirement. An Applicant is not eligible to apply if it has no employees or if the workers are independent contractors, subcontractors or contract employees. However, if an Applicant leases its employees for payroll and tax reporting purposes, and has authority over the hiring, firing and scheduling of workers, it is eligible for funding consideration; and
- Are in good standing with regard to the laws, rules, and regulations for: Unemployment Insurance (UI), Worker Adjustment and Retraining Notification Act (WARN), Public Work, Labor Standards, Safety and Health, NYS Department of State Division of Corporations, Workers Compensation Insurance, and Disability Insurance.

EET funds are separate from any other workforce development funding an Applicant may have received from NYSDOL. Applicants with existing or pending contracts with NYSDOL remain eligible to apply for funding under this EET RFA, but the application must not propose services to the same individuals as the existing or pending NYSDOL contract(s). If existing contracts are for services identical to those proposed under this EET RFA, applicants must serve new individuals under the proposed training program and must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract for participant services before an award is made for CFA WDI funding. In addition, the payments requested from awarded contracts under this RFA cannot duplicate reimbursement from other sources of funding.

Consultants, trade organizations and other third-party entities are not eligible to apply for EET Program funds on behalf of other organizations. Trade organizations, such as labor unions and manufacturing associations, can apply for EET funding if they are training their own employees.

The use of a grant writer is acceptable if the Applicant, and not the grant writer, commits to implementing the proposed training program, if the application is successful.

Eligible Applicants must attest to the Minimum Threshold Requirements as outlined in the Evaluation Criteria Section (V.C.) of this RFA.

An Applicant and its components are only eligible for one award under this RFA, not one per location, and are subject as a whole to the funding limitations described in this RFA. Separate operations or locations of an eligible Applicant may apply separately if they have different Federal Employer Identification Numbers (FEINs). However, NYSDOL will also have to confirm that all such branches, locations, and companies are not part of a greater whole.

B. Trainee Eligibility

Existing employees of the Applicant are eligible trainees under this RFA, if they are working:

- In NYS;
- In low-skills or middle-skills occupations, defined as occupations with Job Zones 1, 2, or 3. Individuals in high-skills occupations (i.e., Job Zones 4 and 5) are not eligible for training under this RFA. For additional information on the classification of occupations as low-skills and middle-skills with Job Zones, see the Program Services Section (III.C.) of this RFA;
- Full-time or part-time and have a permanent, year-round attachment to the business. Temporary employees, seasonal employees, public (federal, state, county, municipal, public authority and public benefit corporation) employees and volunteers are not eligible for training under the RFA; and
- Are employed by the Applicant for at least six (6) months prior to the start of the training or are in a cohort of trainees in which the majority of the cohort has been employed by the Applicant for at least six (6) months prior to the start of the training.

The position(s) targeted for training must exist and be identified at the time the application is submitted. Trainees do not need to be NYS residents.

Trainee eligibility is based on the typical education level of an individual in low and middle-skills occupations and not the current education attainment of the trainee.

Trainees cannot be mandated to remain with the business for a set time period upon completion of the training. If a trainee leaves the business during or upon completion of the occupational skills training, the trainee cannot be mandated to reimburse the business for the cost of the training. For additional details regarding this scenario, please refer to the Payment Section (VI.B.) of this RFA.

Please note that this solicitation is federally funded, therefore all men born on or after January 1, 1960, who will be served under this RFA, must be registered with Selective Service.

If a male participant is between the ages of 18 and 26, he may register online at <https://www.sss.gov/Registration-Info> and provide his registration number on the Trainee Information Form. If a male participant is not registered and is 26 years of age or older, he must sign an Attestation stating that his failure to register was not willful. The Trainee Information Form and the Attestation Form will be provided to each Applicant after an award is made.

A list of those who are required by law to register with Selective Service may be found online at <https://www.sss.gov/Registration-Info/Who-Registration>.

C. Program Services

1. O*NET Codes, Job Zones, and Skill Level of Occupations

The Occupational Information Network (O*NET), found online at <http://www.onetonline.org/>, is an interactive application for exploring and searching occupations and their distinguishing key features. O*NET provides a universal classification of more than 900 occupations with key features required by workers, such as: tasks performed, knowledge, abilities, skills, typical education, and work experience. O*NET also provides information on wages and employment prospects of each occupation. O*NET is

developed under the sponsorship of the USDOL's Employment and Training Administration (ETA). For further information regarding O*NET, please refer to [Section VII](#) of this RFA.

Applicants must utilize the O*NET to identify middle-skills positions as targeted by this funding opportunity. Five Job Zones from O*NET help identify low, middle or high-skills occupations based on the levels of education and training connected to occupations. This information is summarized in Table 1. Detailed information about the Job Zones may be found at https://www.onetonline.org/help/online/zones/?sm_aui=iVV8kWZnSq4MRMWj.

Table 1: Skill level of occupation based on Job Zones in O*Net and eligible trainees under this RFA

Skill Level of Occupation	Job Zone Based on O*NET	Preparation Needed to Work in the Occupation	Eligible Trainee under this RFA
Low-skills	1 and 2	Some, little or no preparation needed (typically requires high school education or less)	Yes
Middle-skills	3	Medium preparation required (typically requires more than high school education, training in vocational schools, related on-the-job experience, or an associate's degree but less than a bachelor's degree)	Yes
High-skills	4 and 5	Considerable to extensive preparation needed (typically requires a bachelor's degree or more than a bachelor's degree)	No

In the Master Training List (MTL), the Applicant must provide the O*NET codes of occupational titles that best match the tasks performed by trainees and the corresponding Job Zone code. Job Zone codes must be 1, 2, or 3.

Trainees in high-skills occupations are not eligible for training under this RFA and should not be referenced in an Applicant's application. Applications that include high-skills occupations will be considered non-responsive and will not be reviewed.

The Master Training List should include only the list of trainees the Applicant wants to fund with EET funding and not a list of all employees. Applicants are asked to submit the Master Training List in Excel (.xls or .xlsx) format and not in a Portable Document Format (.pdf).

The O*NET code of the employee should be based on the job duties the trainee performs. The organizational title of the employee does not need to be the same as the O*NET title.

2. Career Development and Credentials

Occupational skills training should assist in the development of a career ladder which improves a trainee's skills, often providing a credential to the trainee, while also leading to a long-term career in higher skills occupations.

Credential is defined as an attestation of qualifications or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. A credential is not a certificate of completion for a course. Examples of credentials include:

- A secondary school diploma or its recognized equivalent; and
- Recognized postsecondary credentials which include Associate's and Bachelor's degrees; occupational licensures; occupational certificates, including Registered Apprenticeship and Career and Technical Education educational certificates; occupational certifications; and other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Recognized postsecondary credentials must be awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills and not the attainment of work readiness or general skills only (i.e., safety, hygiene, and computer security).

Credentials are generally achieved for skills improvements that are crucial to talent development for businesses and are often portable and transferable across multiple industries. Stackable credentials, which are part of a sequence of credentials that can be accumulated over time, build up an individual's qualifications and help the individual to move along a career ladder to potentially higher-paying jobs.

While an Applicant can apply if the proposed training program does not provide a credential, additional points will be awarded during the scoring process to those programs that help trainees achieve credential(s) given by third-party issuers or accredited institutions.

Credential is defined in Section VII of this RFA.

3. Alignment with WIOA Regional Priorities

Applicants that align their proposed occupational skills training program with the priorities outlined in WIOA Regional Workforce Plans regarding priority industries and sector strategies will be awarded additional points in scoring. Regional Plans from 2016 may be found at <https://labor.ny.gov/workforcenypartners/lwda/regional-plans.shtm>. A spreadsheet of priority industries by region from the 2016 Regional Plans is attached to this RFA (PIR Attachment).

4. Target Geography

EET funding will promote availability of occupational skills training programs leading to employment of trainees in distressed communities by providing additional points during scoring to programs identified as serving counties identified in high need areas. Applicants must determine which county the proposed training program will serve. If multiple counties will be served, Applicants are asked to identify the county to which the majority of the trainees will be from. NYSDOL will make a determination if the proposed training program is offered in locations of high, moderate, or low need counties (See the full list of Counties of Need in Section VII of this RFA).

5. Reporting Requirements

The contractor must submit individual participant level data to NYSDOL. NYSDOL staff will record this data in the One-Stop Operating System (OSOS).

OSOS is NYSDOL's case management system and is used to record basic participant information, as well as to track the provision of required services. OSOS is a web-based job matching, case management, and reporting system that allows workforce professionals to effectively manage workforce development programs.

NYSDOL may require quarterly reports on program updates, progress, and success. This may include information beyond the available data in OSOS.

IV. Process for Application Submission

A. Questions Concerning this RFA

Applicants may submit questions via electronic mail to CFA@labor.ny.gov. Questions regarding the RFA will be accepted until funds are exhausted. No telephone inquiries will be accepted. All inquiries should include the following reference in the Subject line: "CFA WDI EET Question". Answers to all questions will be posted on the NYSDOL website (<https://labor.ny.gov/businessservices/funding.shtm>) on an ongoing basis.

The NYSDOL CFA WDI Team cannot see applications in the CFA portal until applicants have successfully completed the threshold questions and are in progress. The NYSDOL CFA Team can only answer program related questions. Applicants should direct any technical questions about the CFA portal to cfa-tech@ny.gov.

B. Assistance in Completing this RFA

Eligible Applicants may speak with a NYS Career Center Business Services Representative (BSR) for technical assistance or support during the development of the proposed training program. BSRs contact information may be found at the following link:
<https://www.labor.ny.gov/formsdocs/factsheets/pdfs/p469.pdf>.

C. Application Due Date

The completed application with all required attachments must be submitted through the CFA portal, <https://apps.cio.ny.gov/apps/cfa/>, on an ongoing basis until funds are exhausted. Any applications or unsolicited amendments to applications received after the due date and time will not be considered in the review process. NYSDOL takes no responsibility for any third-party error in the delivery of applications (i.e., public computer access, internet service provider, etc.).

D. Application Submission Instructions and Format

All fields in the application must be completed in the CFA portal, available online at <https://apps.cio.ny.gov/apps/cfa/>. The CFA portal institutionalized the role of the REDCs in identifying priorities for NYS resources. The CFA portal is a modern and easy-to-use application, providing resources to help Applicants, and includes the CFA application step-by-step guide with screenshots, CFA application questions and answers, recorded webinars, and available in-person CFA workshops (<https://regionalcouncils.ny.gov/> - CFA Application Guide).

Applications must be marked as "submitted" in the CFA portal in order to be reviewed. No faxed or hard copy applications will be accepted. If the Applicant does not have the technological capability to access,

complete and submit the CFA, it may do so at its nearest Career Center (please find the nearest location on the NYSDOL's website at: <https://labor.ny.gov/career-center-locator/>).

Once the application is submitted, there is no ability to resubmit or edit a threshold question. The Applicant will need to register with a new token and start a brand-new application, if a threshold question was answered incorrectly.

Applicants should apply for all CFA WDI program(s) of interest via one submission. In doing so, answers to the CFA portal's basic questions, such as contact information and project location will only be required to be entered once.

To ensure that questions specific to the program(s) to which the Applicant is applying are answered, the Applicant should log into the application in the CFA portal and click the word "Programs" located toward the left of the screen; just below the Application number. From this screen, the Applicant can add or remove programs and their associated questions.

All required documents must be completed and uploaded as attachments in the CFA portal. Please note that uploading blank, incomplete or unsigned attachments to the application may render the Applicant ineligible for funding consideration.

Required application attachments and the requested submission format are listed below:

- 1) Master Training List (MTL) – Excel format;
- 2) Detailed Budget Attachment (DBA) – Excel format;
- 3) Bid Worksheet (BW) – Word format;
- 4) Key Contacts (KC) – Excel format;
- 5) Application for Competitively Bid Contract (ACBC) – Signed and in PDF format;
- 6) Vendor Responsibility – Applicant Questionnaire (VRAQ) – Signed and in PDF format;
- 7) NYS Executive Order 177 Certification (EO) – Signed and in PDF format;
- 8) MWBE and EEO Policy Statement (MWBE-1) – Signed and in Word format;
- 9) EEO Staffing Plan (MWBE-2) - Signed and in Word format;
- 10) MWBE Utilization Plan (MWBE-4) and/or Application for Waiver of MWBE Participation Goal (MWBE-5) – Signed and in Word format; and
- 11) SDVOB Utilization Plan (SDVOB-1) and/or Application for Waiver of SDVOB Participation Goal (SDVOB-3) – Signed and in Word format.

Applicants must acknowledge that they have reviewed the following informational attachments prior to the submission of the application in Standard Question 9307. Failure to answer this question will prohibit the Applicant from proceeding with submission of the application.

- 1) Appendix - Existing Employee Training Request for Application
- 2) Appendix - Grants Gateway Prequalification Requirement
- 3) Appendix – O*NET and Job Zone Information
- 4) Appendix – Priority Industries by Region
- 5) Appendix – WIOA Partner Contact Information

- 6) Appendix - Standard Clauses for all NYS Contracts
- 7) Appendix - Combined Terms and Conditions
- 8) Appendix - General Information for Successful Bidders/Applicants
- 9) Appendix - Master Contract
- 10) Appendix - WIOA References
- 11) Appendix - Minority and Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) Requirements and Procedures
- 12) Appendix - EEO 101 – Workforce Utilization Report
- 13) Appendix - MWBE 105 – MWBE Quarterly Compliance Report
- 14) Appendix - Service-Disabled Veteran-Owned Businesses (SDVOB) Requirements and Procedures
- 15) Appendix - SDVOB 101 – SDVOB Monthly Compliance Report

E. Grants Gateway Registration and Prequalification Status

As indicated in Section II.E. of this RFA, all interested parties must be registered in the Grants Gateway prior to application submission and all private, non-governmental NFP Applicants must be designated in one of the status categories listed below prior to application submission:

1) Document Vault Prequalified

- a) Fully Prequalified

2) Document Vault Prequalified Open

- a) If an organization proactively opens its document vault before the required documents expire, it will go to this status.
- b) The Organization will not lose prequalification status unless an expiration date passes.
- c) This allows NFPs to apply for funding opportunities without losing prequalification status.

3) Document Vault Prequalified/In review

- a) This status is only available if an organization has proactively opened its vault prior to document expiration and has submitted it with updated documents.
- b) The organization is still considered prequalified during this status EVEN IF the expiration date passes.

4) Document Vault Prequalified/Open for Prequalification Specialist (PQS) Edits

- a) NYSDOL is making edits and prequalification status is maintained.

Once it is determined that a private, non-governmental NFP Contractor is prequalified, the organization must maintain prequalification status during the contract period. The organization will be given an opportunity to submit documents and information to the Grants Gateway in order to maintain or regain prequalification status.

For more information about Grants Gateway and Prequalification, please visit the Grants Gateway website <http://grantsmanagement.ny.gov> or contact the Grants Management Team at: grantsreform@its.ny.gov. The Grants Management help desk/hotline can be reached at (518) 474-5595.

NYSDOL will consider any application not meeting the Grants Gateway registration or private non-governmental NFP Applicant pre-qualification requirements prior to application submission to be non-responsive.

F. RFA Timetable

- RFA Release Date – May 8, 2019
- Deadline Date for Questions – Ongoing
- Deadline Date for Responses to Questions – Ongoing
- Application Due Date – Ongoing
- Projected Notification of Awards – Ongoing as received

V. Application Review and Selection

A. Application Process

Under the CFA WDI, the application process will take place in two (2) phases. During Phase One, interested Applicants will submit a general project plan to the REDC in their region, which will be reviewed by the REDC Workforce Development Committee. The REDC Workforce Development Committee will make recommendations to the REDC's Executive Committee, who will decide which applications advance to Phase Two. Additional information about the WDI process and the Phase One application is available at <https://www.ny.gov/workforcedevelopment>.

Note, during WDI Phase One, only the project plan questions will be available in the CFA portal. This does not include the Minimum Threshold Requirement, Program Design, Work Plan, and Budget questions specific to NYSDOL's RFAs. These questions will be made available during Phase Two.

Applicants that advance to Phase Two will be notified by the Office of Workforce Development and granted access to the appropriate WDI program questions to complete and submit. These Phase Two questions address the specific requirements of all RFAs for which the applicant is eligible to apply, including NYSDOL's EET, NHT and UWT programs.

For further information regarding Phases One and Two of the Workforce Development Initiative Process, refer to <https://www.ny.gov/workforce-development-initiative/workforce-development-initiative-process#project-identification>.

B. Evaluation of Phase Two Applications

A complete application, including the DBA and all other required attachments must be submitted via the CFA portal so that NYSDOL can conduct a full and proper evaluation. Failure to answer all questions in the application will jeopardize the Applicant's potential for funding. NYSDOL will make an initial eligibility determination on each application received. Applications deemed eligible will be scored based on further review and evaluation. Application scores will consist of 65% for Program Design, 15% for

Work Plan, and 20% for Program Cost. Scoring of technical merit will award points based on a “criteria met” or “criteria not met” scale. NYSDOL reserves the right to make no awards.

Applications must first meet all Minimum Threshold Requirements, Section V.C.1 of this RFA. Upon receipt of all required documents and confirmation of Minimum Threshold Requirement attainment, EET applications will be evaluated by NYSDOL staff. NYSDOL staff will score applications based on the Program Design, Work Plan, and Program Cost described in the Evaluation Criteria Section (V.C.) of this RFA.

Program outcomes based on past performance related to retention of employees after the completion of training, their attainment of credentials, and potential wage increases are considered in NYSDOL’s award determination.

C. Evaluation Criteria

The Evaluation Criteria has four parts: the Minimum Threshold Requirements; the Program Design; the Work Plan; and the Program Cost. The evaluation of the application will consist of a review of each part separately.

Applications deemed eligible will be scored based on further review and evaluation. Application scores will consist of 80% on Technical Merit (65% on Program Design and 15% on Work Plan) and 20% on Program Cost.

1. Minimum Threshold Requirements

Failure to attest to and document Minimum Threshold Requirements will result in an automatic rejection of the application and scoring will not proceed. No points will be awarded for Minimum Threshold Requirements. Applicants must attest to each of the following:

- 1)** (Q_9411) Applicant is a private sector for-profit entity, including corporations, LLCs and LLPs or a private sector not-for-profit (NFP) entity;
- 2)** (Q_8746) Applicant is in good standing with regard to the laws, rules, and regulations for UI, WARN, Public Work, Labor Standards, Safety and Health, NYS Department of State Division of Corporations, Workers Compensation Insurance, and Disability Insurance;
- 3)** (Q_9260) Applicant has two (2) or more employees or the equivalent of two (2) full-time employees (these employees may work part-time as long as it is a permanent, year-round position whose work performance is integral to the service or product provided by the business and who is economically dependent on the business);
- 4)** (Q_9261) The application was developed by the Applicant and all language therein is presented at the request of the Applicant. The use of a grant writer is acceptable, only if the Applicant and not the grant writer, commits to implementing the training listed in the application, if the application is successful;
- 5)** (Q_9262) Applicant agrees to submit reports to NYSDOL on an as needed basis for the purposes of meeting federal and NYS reporting requirements and understands such reporting may include identifiable information related to both the Applicant and the Trainee;

- 6) (Q_9302) The application was developed by the Applicant after it conducted an assessment of its training needs of employees in low and middle-skills occupations;
- 7) (Q_9303) The trainees targeted under this application are existing employees of the business, not independent contractors or contract employees;
- 8) (Q_9304) Training will take place on company time and trainees will be paid wages at no less than their normal rate of pay while they attend training;
- 9) (Q_9265) Applicant will not charge or expect any trainee served under this proposed training program to pay any tuition charges or other fees;
- 10) (Q_8749) Applicant understands that all Applicants must register in the Grants Gateway system (<https://grantsmanagement.ny.gov>) before application submission;
- 11) (Q_9412) Applicant understands that all private, non-governmental NFP organizations must prequalify before application submission and must be in an acceptable pre-qualification status in the Grants Gateway system (<https://grantsmanagement.ny.gov>);
- 12) (Q_9305) It is the intention of the Applicant that the employees to be trained will continue to work in NYS upon completion of the training;
- 13) (Q_9306) None of the funds being requested under this application will be used in the relocation of employment from facilities in other locations which will result in an employee losing his or her job at the original location;
- 14) (Q_9263) Applicant will comply with NYS Labor law and Federal law for the protection of workers; and
- 15) (Q_9264) If awarded, job openings that occur during the contract period will be listed with the NYSDOL Job Bank. To place a job order, visit: <https://www.labor.ny.gov/businessservices/services/perm.shtm>.

2. Program Design – 65 Points

Applicant must fully answer each part of the questions listed in the CFA portal and submit applicable attachments. Note that the CFA portal requires answers to Threshold questions; Location questions; and completion/upload of required attachments listed in section VIII of this RFA prior to the completion of Standard questions, which NYSDOL refers to as Program Design.

Business/Industry Demand (10 points)

- 1) (Q_2950) Enter Your Federal Employer Identification Number (FEIN).
- 2) (Q_9386) Indicate the priority industry the proposed training program will serve. For information regarding priority industries by region, please see Section III.C.3 or the PIR Attachment of the RFA. (3 points)
- 3) (Q_9269) Describe in detail the compelling need for the proposed training program with current state of the industry and economy. (2 points)

- 4) (Q_9271) Explain with specificity the need for employees to gain the occupational skills proposed by the training program. (2 points)
- 5) (Q_9415) Describe how the proposed training program will lead to advancement or retention of trainees in middle-skills occupations. Distinctly note how the proposed training program will assist in skills upgrade and retention of the trainees and improve productivity of trainees. (3 points)

Target Geography (4 points)

- 6) (Q_9416) Indicate a single project county to which the majority of the proposed training program will serve. For information regarding target geography, refer to Section III.C.4 of this RFA. (4 points)

Target Population (12 points)

- 7) (Q_9417) Indicate the exact number of trainees who will be trained under this application. (2 points)
- 8) (Q_9272) In the Master Training List, MTL, provide the following for the individuals proposed to be trained under the proposed training program (8 points):
- i. Names of proposed trainees and their existing job titles;
 - ii. O* NET code of the occupation that matches the tasks performed by the trainee. For more information regarding O*NET codes, please refer to Section III.C.;
 - iii. Job Zone code associated with the O*NET code of the occupation of trainee; and
 - iv. The occupational skills training course(s) each trainee will attend.
- 9) (Q_9274) Describe with specificity the characteristics of the trainees (i.e., knowledge, abilities, skills, or educational levels, etc.). (2 points)

Occupational Skills Training Course(s)/Career Development (19 points)

- 10) (Q_9273) Provide titles and full descriptions of every occupational skills training course in the proposed training program, including (8 points):
- i. A description of the occupational skills training curriculum and educational strategy, including materials to be used and the duration for each course proposed;
 - ii. A detailed list of occupational skills the trainees will acquire for each occupational skills training course;
 - iii. A description of how the applicant will assess the attainment of the trainees' occupational skills during the training course; and
 - iv. A description of how the educational strategy takes into account the relevant characteristics of the trainees as described in the prior question (Q_9274).

For the definition of occupational skills training course and the exclusion of unallowable stand-alone trainings, see the Program Services Section (III.C.) of this RFA.

- 11) (Q_9275) Clearly identify the methods by which input was solicited from trainees in developing the occupational skills training program. (2 points)
- 12) (Q_9276) Provide in detail how the information gained from the occupational skills training will be disseminated to others in the organization. (2 points)

- 13)** (Q_9277) Describe how the occupational skills to be acquired by the trainees are recognized and transferable, either industry-wide or used across multiple industries. If the skills are used across multiple industries, list those industries. (2 points)
- 14)** (Q_9278) Describe the educational component of the proposed training program that will educate the trainees about career development within or across the industries described in the prior question (Q_9277), including the credential(s) or opportunities for advancement. For details see Program Services ([Section II.2.](#)) of this RFA. (2 points)
- 15)** (Q_9279) Provide the name, description(s), and the authority or third-party issuer of the specific credential the trainees will receive at the conclusion of the training. For the definition of credential see the Program Services Section ([III.C.](#)) and [Section VII](#) of this RFA. (3 points)

Outcomes (14 points)

- 16)** (Q_9280) Has the Applicant provided a similar occupational skills training program in the past?

If yes:

- (Q_9281) Provide the percentage of trainees from prior Applicant-sponsored occupational training course(s) that attained a credential. For a definition of credential see the Program Services Section ([III.C.2.](#)) and [Section VII](#) of this RFA. (Percentages of 0% to 25%; 25.01% to 75%; 75.01% to 100%). (4 points)
- (Q_9283) Provide the percentage of trainees from prior Applicant-sponsored occupational training course(s) that were retained in employment for at least a year. (Percentages of 0% to 25%; 25.01% to 75%; 75.01% to 100%). (4 points)

If no:

- (Q_9282) Provide the estimated percentage of trainees who will attain a credential from the occupational skills training course(s). (Percentages of 0% to 25%; 25.01% to 75%; 75.01% to 100%). (4 points)
- (Q_9284) Provide the estimated percentage of trainees who will be retained in employment for at least a year. (Percentages of 0% to 25%; 25.01% to 75%; 75.01% to 100%). (4 points)

- 17)** (Q_9285) Does the proposed training program result in a nationally accredited credential?

If yes:

- (Q_9286) Provide the name of the national accreditation entity. (1 point)

- 18)** (Q_9287) Describe how the Applicant will evaluate that the skills learned by the trainees, due to the proposed program, will be implemented in their work. (2 points)

- 19)** (Q_9288) Select the geographical area where the proposed program is offered.

- (Q_9289) If the project is located in New York City: Provide the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training course(s). Minimum wage (\$15.00) to \$16.50; \$16.51 to \$18.00; \$18.01 to \$19.50; \$19.51 and up.

- (Q_9290) If the project is located in Long Island or Westchester County: Provide the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training course(s). Minimum wage (\$12.00) to \$13.50; \$13.51 to \$15.00; \$15.01 to \$16.50; \$16.51 and up.
- (Q_9292) If the project is located in the rest of New York State: Provide the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training course(s). Minimum wage (\$11.10) to \$12.60; \$12.61 to \$14.10; \$14.11 to \$15.60; \$15.61 and up. (3 points)

Leveraged Funding (2 points)

- 20)** (Q_9387) Indicate the required Leveraged Funding percentage as determined by the response to Q_9418 and the sliding scale rates defined in Section II.C. (2 points)

Organizational Capacity/Experience (4 points)

- 21)** (Q_9418) Identify the number of full time equivalent (FTE) workers currently employed by the applicant business. (0 points)
- 22)** (Q_9291) How many years has the Applicant offered similar occupational skills training or service? (Less than 1 year; 1 to 2 years; 3 or more years). (2 points)
- 23)** (Q_9293) What is the Applicant's annual revenue? (0 points)
- 24)** (Q_9294) What is the Applicant's annual revenue in relation to the total CFA funding request? (40.01% or more of total organizational revenue; 10.01% to 40% of total organizational revenue; Less than or equal to 10% of total organizational revenue). (2 points)

Existing Contracts (0 points)

- 25)** (Q_10368) Does the Applicant have an existing contract(s) with NYSDOL for services identical to those proposed under this EET RFA? (0 points)

If yes:

- (Q_10369) Does the Applicant understand that it must serve new individuals under the proposed training program and that it must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract(s) before a CFA WDI award is made? (0 points)

3. Work Plan – 15 points

In the Work Plan Attachment (WPA), the Applicant will define the objectives, tasks, and performance measures that will detail the proposed plan to ensure training and service activities, as identified in the Program Design. Applicants can include objectives, tasks, and performance measures, including the following:

- The objectives are realistic and align with the activities as proposed in the Program Design;

- The tasks as described align with the associated objective and upon completion will attain the objective (Applicant should include critical tasks to be performed for attaining the relevant objectives and performance measures);
- The performance measures, as proposed, will measure the associated objective attainment; and
- The performance will evaluate project effectiveness. The performance measures must be SMART: Specific, Measurable, Achievable, Relevant and Time-oriented (who will do what, how it will be counted, how often, and when the tasks and objectives will be evaluated).

Performance measures may include, but are not limited to, the measurement of how the training has influenced the competencies showing implementation of skills learned during the training; increase in wages; feedback from trainees about the training; improvement in trainees' performance evaluations; impact of training on the Applicant's business productivity; and the number of trainees attaining licensing/credential.

4. Program Cost – 20 Points

An Applicant may receive up to 20 points for the program cost. All allowable costs requested from CFA and leveraged funds must be entered in the CFA portal budget table as described below. For a list of restricted use of funds, please see the Restrictions on Types of Training Section ([II.B.2.](#)) and the Restrictions on Use of Funds Section ([II.B.3.](#)) of this RFA.

CFA Portal Budget Table

The CFA budget portal table has five columns:

- Use – Select "Proposed Program";
- Source – Indicate whether the cost is requested from CFA funding or is leveraged funds;
- Status – Indicate whether the funding included in the Source column is Anticipated or Secured;
- Amount – Provide the amount, in dollars, for each item from the Use column; and
- Indicate Source/Comments – Provide applicable specifics such as the source of leveraged funds and their use.

An Applicant may have additional costs of training that could be entered as leveraged resources. Additional points are given during scoring for leveraged funds as outlined in Evaluation Criteria ([Section V.C.](#)) of this RFA.

The rows in the CFA portal budget table allow the Applicant to enter the source of the cost by using drop-down options. More rows can be added to the table by clicking "Add Rows."

A complete and correct CFA portal budget table will help Applicants obtain the most accurate cost score.

Detailed Budget Attachment

Applicants must also complete and submit the [DBA](#) with their application. The DBA requires specific detail for both the costs of occupational skills training course(s) (Training Costs) and the allowed non-Personnel Costs of books or training materials directly associated with the training; software required to

deliver the training (distance learning fees); or credentialing exam fees. This detail will be incorporated into the contract of successful Applicants.

Bid Worksheet

Applicants must also complete and submit the Bid Worksheet (BW) attachment with their application. The BW requires that the Applicant provide two (2) comparison bids on the tuition rate from training providers other than the selected training provider, which shows that a training provider with the lowest (or a comparable) tuition rate was selected. This information will document that the costs of the selected occupational skills training program are reasonable, and will be the basis for awarding points for program cost. Applications that demonstrate the reasonableness of their selected training provider's tuition rate will receive 20 points for cost. Applications that do not demonstrate reasonable cost will receive no points for cost. Additionally, if the Applicant fails to demonstrate that costs are reasonable, and NYSDOL cannot independently document that the costs are reasonable, the Applicant may not be eligible for award, even if the Application's technical score achieves the minimum score for award. Applicants are encouraged to use the Eligible Training Provider List (ETPL) as a resource for obtaining comparison quotes to their selected training program. A link to the ETPL can be found here: <https://applications.labor.ny.gov/ETPL/>.

If the Applicant has not provided the required number of comparison bids, or if the lowest cost training rate was not selected, compelling justification for the reason(s) the training provider was selected must be provided. This justification will be reviewed by NYSDOL and may result in program cost points being awarded.

If it is determined unallowable costs were included in the DBA during the Program Cost review, those costs may be removed during the award process or contract development, and will not be included in the contract of the successful Applicant.

D. Method of Selection

Applications must first be approved by the REDC's Executive Committee during the Phase One review outlined in Application Process (Section V.A.), and then meet all minimum eligibility requirements outlined in the Minimum Threshold Requirements Section (V.C.1.) of this RFA.

Applications that meet all minimum eligibility requirements will proceed to the review phase, where the application will be scored for Technical Merit (worth up to 80% of the total) by NYSDOL's Program Staff, and Program Cost (worth up to 20% of the total) by NYSDOL's Finance Bureau. Scores for each portion of the evaluation will be combined and result in an Application Final Score.

A complete response to each question is crucial to ensure full points are awarded. Applicants are advised to use the "scoring tips" provided next to each question in the CFA portal.

Applications will be reviewed in the order they are received. Each application will be scored on its individual merit and will not be compared to other applications. Eligible applications that attain an Application Final Score of 70 points or more will be awarded funding. Successful applicants will be awarded on a continuous basis until the funds allocated to the EET Program are exhausted. Eligible applicants that fail to attain a total score of 70 points will be notified via letter and are eligible to revise their applications and reapply, if sufficient time and funding remain.

If an application achieves a score that would be awarded, but the costs are not reasonable to NYSDOL or the skills are not transferable, NYSDOL reserves the right to reject the application.

NYSDOL may award a contract for any or all parts of an application and may negotiate contract terms and conditions to meet agency program requirements consistent with the RFA.

Any unallowable costs will be costs not permitted under the requirements of this RFA.

It is important to note that:

- Ineligible Applicants will be disqualified before completing a review;
- Incomplete applications will be disqualified;
- All Applicants that are determined not to be responsive or responsible will be disqualified after completing a review;
- Applications that fail to meet requirements will be disqualified; and
- NYSDOL reviews will result in a final score.

VI. Award Administration and Information

A. Award Notices

All Applicants will receive a letter informing them of the decision on their application and successful Applicants will be contacted by NYSDOL's contract development staff. If awarded, the Applicant will also be notified of the maximum amount it has been awarded.

Applicants who receive an award must be prepared to enter into contract negotiations immediately, and begin trainings no later than six (6) months from the date of the award letter. NYSDOL reserves the right to rescind the award of any Applicant that is unable or unwilling to promptly engage in the contracting process or to begin conducting its trainings in accordance with the terms of the contract.

Applicants that have existing contracts for services identical to those proposed under this EET RFA must serve new individuals and must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract for participant services before an award will be made under the CFA WDI.

Applicants that receive an award under this program, successfully serve at least 75% of the planned participants, and have expended at least 75% of the awarded funds may apply again, if funding and time remain.

Applicants not awarded are entitled to request a debriefing from NYSDOL, which may include the reason(s) for the non-award and general guidance on the part(s) of the evaluation criteria that were not met. Such debriefing shall be requested within 15 calendar days of the notice of non-award. NYSDOL will respond to the debriefing request within a reasonable amount of time.

B. Payment

Once a contract has been developed and formally executed, funds will be released on a cost reimbursement basis. A Contractor must first pay for incurred expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on the prescribed forms before

payment is made. For cost reimbursements to be approved, certain records must be kept and specific documents submitted. Contractors must provide documentation that the service was provided. This will include attendance records for each training session to document attendance or certificates of completion showing the participant completed all required elements of the training. Attendance sheets must include the Name of the Trainee, Signature of the Trainee, Signature of the Trainer, and Date and Hours of Training.

Expenditure reimbursement is based on individual participant attendance at occupational skills trainings. If the trainees attend up to and including 50% of the course, the reimbursement will be at the level of attendance achieved (i.e., individual trainee attends 30% of the course sessions, the reimbursement will be 30% of the training cost). For trainee attendance of 51% and above, the reimbursement will be for 100% of the training cost.

Please be advised that trainings may not begin until after an award is made. This includes the completion of application reviews, due diligence being confirmed, awardees determined, and award letters being issued. The start date for all contracts resulting from this solicitation may be no earlier than the date of the award letter issued by NYSDOL. Any training that begins or is paid for prior to the date of the award letter will fall outside the contract period and be ineligible for reimbursement. Further, all activities funded by the contract must end on or before the end date of the contract and any activities that occur after the end date of the contract will not be eligible for reimbursement.

NFP organizations funded under the EET program are eligible for a cash advance of their award, up to 25% of total contract value, upon contract execution, at the sole discretion of NYSDOL and subject to the availability of funds appropriated and available for contracts entered into pursuant to this solicitation.

Electronic Payments – Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary NYS procedures and practices. The Contractor shall comply with the NYS Comptroller's procedures to authorize electronic payments. Authorization forms are available at the NYS Comptrollers website at www.osc.state.ny.us/epay/index.htm, by email at helpdesk@sfs.ny.gov, or by telephone at 855-233-8363. The Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the NYS Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

C. General Requirements

All applications and accompanying documentation will become the property of NYS and will not be returned. The content of each Applicant's application will be held in strict confidence during the evaluation process, and no details of the application will be discussed outside of the evaluation process. The successful Applicant's applications and portions of the RFA deemed applicable by NYSDOL will be made part of the contract. Therefore, an official authorized to commit the company to a contract must sign the application.

D. Buy American Requirements

Applicants should be aware of the requirements of WIOA, section 502 which provides that none of the funds made available under Title I or II of WIOA or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the entity agrees that in expending the funds the entity will

comply with the Buy American Act (41 U.S.C. sections 8301 through 8303). It is the sense of Congress that entities receiving assistance should, in expending the assistance, purchase only American-made equipment and products. See WIOA, section 502 – Buy American Requirements included in the WIOA References (WIOA) attachment of this RFA.

E. Federal and NYS Executive Orders

Please note that the Federal WIOA funds supporting this initiative are subject to the following federal and NYS Executive Orders:

- Executive Order 13513 – Sec. 4. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Sub-recipients. Contractors, subcontractors, and recipients and sub-recipients are encouraged to adopt and enforce policies that ban text messaging while driving a vehicle when performing official Government business or work on behalf of the Government, and to conduct initiatives of the type described in section 3(a) of the Executive Order.
- Executive Order 12928 – The recipients are strongly encouraged to provide contracting/subcontracting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Business Owned and Controlled by Socially and Economically Disadvantaged Individuals.
- Executive Order 13043 – Recipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.
- Executive Order 13166 – Recipients must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to programs in accordance with USDOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with LEP Volume 68, Number 103, Page 32289-32305. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.
- NYS Executive Order 177 – see [Section VIII](#) for further information.

F. Reservation Clauses

NYS DOL, in order to serve the best interests of NYS, reserves the right to:

- 1) Make no award;
- 2) Postpone or cancel this RFA upon notification to all Applicants;
- 3) Amend the specifications after their release with appropriate notice to all Applicants;
- 4) Move funding allocated among the NYS DOL CFA WDI programs if one or more of the programs have a shortage (or surplus) of: Applicants, quality applications, or funding requests;
- 5) Remove applications with unreasonable costs from award consideration;
- 6) Request Applicants to present supplemental information clarifying their application, either in writing or in formal presentation. Applicants failing to respond to these requests during the time allotted may be eliminated from funding consideration;

- 7) Waive or modify minor irregularities in applications received after prior notification to the Applicant. This will in no way modify the RFA documents or excuse the Applicant from full compliance with the RFA terms and conditions;
- 8) Correct any arithmetic errors in any application;
- 9) Reject any and all applications received in response to this RFA;
- 10) Contact applicants' references as a check on qualifications;
- 11) Award contracts to more than one Applicant;
- 12) Negotiate with selected Applicant prior to contract award;
- 13) Rescind the award of any Applicant unable or unwilling to begin conducting its training activities immediately following contract execution. No Applicant will have any rights against NYSDOL arising from such negotiations;
- 14) Make any payment contingent upon the submission of specific deliverables; and
- 15) Require that all offers are held open for a period of 120 days unless otherwise expressly provided for in writing.

VII. Definitions

- 1) **Business Services Representatives:** Staff across NYS dedicated to assist businesses with their workforce needs including the NYS Job Bank and NYTalent, tax credits and other hiring incentives, apprenticeship programs, HR consultation, and layoff aversion. To contact a Business Services Representative, please find their contact information at <https://labor.ny.gov/formsdocs/factsheets/pdfs/p469.pdf>.

- 2) **Career Center System Required Partners (AKA Career Center's Partners):** NYS' Career Center System is funded by the WIOA, and is made up of 33 LWDBs that oversee their respective Local Workforce Development Areas (LWDAs) and 96 Career Centers. The System includes:

Core Program Partners:

- NYS Department of Labor-Responsible for delivering services under WIOA Titles I (Adult, Dislocated Workers, and Youth) and III (Wagner-Peyser);
- NYS Education Department-Responsible for delivering services under WIOA Titles II (Adult Education and Literacy) and IV (Vocational Rehabilitation); and
- NYS Office of Children and Family Services/NYS Commission for the Blind- Responsible for delivering services under WIOA Title IV (Vocational Rehabilitation).

Other Career Center Partners:

- Temporary Assistance for Needy Families (TANF);
- Career & Technical Education;
- Title V Older Americans Act;
- Job Corps;
- Native American Programs;
- National Farmworkers Job Programs/Migrant and Seasonal Farmworker Programs;
- Jobs for Veterans State Grants (Chapter 4 of Title 38);
- YouthBuild;
- Trade Adjustment Assistance activities under the Trade Act of 1974, as amended;
- Community Service Block Grant Employment and Training activities;
- Housing and Urban Development Employment and Training activities;
- Unemployment Compensation; and
- Second Chance Act Reentry Employment Opportunity (REO) programs.

The Career Center System may also include strategic partners from education, economic development, and industry.

- 3) **Counties of Need:** NYSDOL assigns each county of NYS into high, moderate, or low need based on indicators such as population, adult poverty rates, adult unemployment rates, adult literacy rates and the level of education attainment.

High Need	Medium Need	Low Need
Bronx	Allegany	Albany
Broome	Cayuga	Chemung
Cattaraugus	Chenango	Columbia
Chautauqua	Clinton	Cortland
Franklin	Delaware	Dutchess
Fulton	Erie	Essex
Greene	Jefferson	Genesee
Hamilton	Lewis	Livingston
Herkimer	Onondaga	Madison
Kings	Otsego	Nassau
Monroe	Rockland	Niagara
Montgomery	Schenectady	Ontario
New York	Schoharie	Orange
Oneida	Seneca	Putnam
Orleans	Steuben	Rensselaer
Oswego	Suffolk	Richmond
Queens	Tompkins	Saratoga
Schuyler	Ulster	Tioga
St. Lawrence	Washington	Warren
Sullivan	Westchester	Wayne
Yates		Wyoming

4) Credential: An attestation of qualification or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. It does not refer to a certificate of completion for a course. Examples of credentials include:

- A secondary school diploma or its recognized equivalent; and
- Recognized postsecondary credentials which include Associate's and Bachelor's degrees; occupational licensures; occupational certificates, including Registered Apprenticeship and Career and Technical Education educational certificates; occupational certifications; and other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Recognized postsecondary credentials must be awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills and not the attainment of work readiness or general skills only (i.e., safety, hygiene, and computer security).

5) Customized Training (WIOA Sec. 3 (14)): Training:

- That is designed to meet the specific requirements of a business (including a group of businesses);
- That is conducted with a commitment by the business to employ an individual upon successful completion of the training; and
- For which the business pays:
 - a. A significant portion of the cost of training, as determined by the local board involved, taking into account the size of the business and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to competitiveness of a participant, and other business-provided training and advancement opportunities; and
 - b. In the case of customized training involving a business located in multiple local areas in NYS, a significant portion of the cost of training, as determined by the Governor of NYS, taking into account the size of the business and such other factors as the Governor determines to be appropriate.

6) Distance Learning: A method of classroom instruction wherein the trainee receives lessons remotely such as over the internet, via email or by mail.**7) Employee Coverage:** Includes labor costs necessary to ensure the performance of the trainee's current job responsibilities during the time that the trainee is away at training and unavailable to perform the duties required of his/her current position.**8) Full-Time Employment:** 35 hours per week or more.**9) Human Resources (HR) Training:** Trainings needed or required to be provided to employees to better understand the workplace to improve the work environment and are not specific to the job or occupation of the employees. The provision of these HR trainings is a normal cost of doing business and is the responsibility of the business. Examples include, but are not limited to, basic trainings about: sexual harassment, diversity, new employee orientation, accessing reasonable accommodation, cyber security, internal controls, internet security, workplace violence, human relations and sensitivity at the work place, fire safety and evacuations, and workplace hazards that do not typically provide specific occupational skills.**10) Individual with a Barrier to Employment (WIOA Sec. 3 (24)):** A member of one or more of the following populations:

- Displaced homemakers;
- Low-income individuals;
- Indians, Alaska Native, and Native Hawaiians as such terms are defined in 29 USCS § 3221;
- Individuals with disabilities (including youth with disabilities and recovering addicts);
- Older individuals;
- Formerly incarcerated individuals;

- Homeless individuals or homeless children and youth;
- Youth who are in or have aged out of the foster care system;
- Individuals who are English Language Learners, have low levels of literacy, or those facing substantial cultural barriers;
- Eligible migrant and seasonal farmworkers;
- Single parents (including single pregnant women);
- Long-term unemployed individuals;
- Individuals within two years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act; or
- Other groups as the Governor determines to have barriers to employment;

For purposes of the CFA, Veterans, Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) recipients are also considered individuals with a barrier to employment.

11) Leveraged Funding: For the purposes of the EET RFA, a percentage of “non-federal” financial commitment of either a portion of the training costs or the wages of the workers while they attend training based on the size of the Applicant’s business:

- 10% for Applicants with 50 or less employees;
- 25% for Applicants with 100 or less employees; or
- 50% for Applicants with more than 100 employees.

12) Local Workforce Development Boards (LWDBs): A board, established in each local area of NYS and certified by the Governor, made up of members from business; workforce; entities administering education and training activities; representatives of governmental, economic, and community development entities; and other individuals or representatives the chief elected official in the local area deems appropriate, tasked with creating a local plan, analyzing local labor market information and workforce development activities, engaging local business to develop linkages, developing career pathways, establishing best practices, and ensuring the appropriate use and management of funds in the local area.

13) Low-Skill Occupations: Occupations typically requiring some, little or no preparation to work in the occupation and may require a high school diploma or GED certificate. Employees in these occupations need anywhere from a few days to a few months of training and usually, an experienced worker could show you how to do the job. Low-skill occupations generally fall under food/beverage serving, sales/related occupations, agricultural, construction/extraction, production, and transportation/material moving occupational categories.

14) Long-Term Unemployed: Individuals, who at the time the appropriate training begins, have been unemployed for 20 weeks or more.

15) Middle-Skill Occupations: Occupations typically requiring some education and training beyond high school but less than a bachelor’s degree. The postsecondary education or training may include an associate’s degree, vocational certificates, significant on-the-job training, previous

work experience, or some college. Middle-skill occupations are generally those that fall under the clerical, sales, construction, installation/repair, production, healthcare and transportation/material moving occupational categories.

- 16) One-on-One Training:** A training provided in-house that consists of only one trainee and one trainer.
- 17) Occupational Skills Training:** Instruction conducted in an institutional or worksite setting designed to provide individuals with the skills required to perform a specific job or group of jobs needed by a business.
- 18) O*NET:** The nation's primary source of occupational information, made up of a database with information on hundreds of standardized and occupation-specific descriptors, and O*NET Online, an interactive application for exploring and searching occupations. For more information, please visit the website at <https://www.onetonline.org/>.
- 19) Regional Economic Development Councils (REDCs):** Established by Governor Cuomo in 2011, the councils are tasked with developing long-term strategic plans for economic growth in each region and are public-private partnerships made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations. For more information, please visit the website at <http://regionalcouncils.ny.gov/>.
- 20) Stand Alone Ineligible Training:** Training is considered "stand alone" when it is not part of a larger occupational skills training. This type of training is not allowable under the CFA. Examples of stand-alone training include:
- Microsoft Office;
 - Basic safety training;
 - Sexual harassment training;
 - State or Federally mandated training (OSHA); or
 - HR training
- 21) Training Provider:** An entity that provides a training program with one or more courses or classes, or a structured regimen that leads to a recognized post-secondary credential, secondary school diploma or its equivalent, employment, or measurable skill gains toward such a credential or employment.
- 22) Workforce Innovation and Opportunity Act (WIOA):** WIOA was signed into law in July 2014, taking effect in July 2015, and replaced the Workforce Investment Act (WIA). WIOA is intended to help job seekers and workers access employment, education, training, and support services to succeed in the labor market, and match businesses with the skilled workers they need to compete in the global economy. For more information, please visit the website at https://www.doleta.gov/WIOA/eta_default.cfm.
- 23) WIOA Regional Workforce Plans:** Regional workforce plans are created by each LWDB, recognizing workforce as an integral part of economic development. Plans are intended to identify and leverage assets of the Career Center System, as well as support the REDC strategic

planning and the role of NYS Workforce Investment Board (SWIB) in addressing workforce priorities. For more information, please visit the website at <https://www.labor.ny.gov/workforcenypartners/lwda/regional-plans.shtm>.

VIII. Attachments and Appendices by CFA Portal Question Number

CFA Portal Question	Acronym	Document Title	Required for submission?
Q_9272	MTL	<u>Master Training List</u>	Yes, Excel format
Q_9308	WPA	<u>Work Plan Attachment</u>	Yes, PDF format
Q_9300	DBA	<u>Detailed Budget Attachment</u>	Yes, Excel format
Q_9313	BW	<u>Bid Worksheet</u>	Yes, PDF format
Q_9314	KC	<u>Key Contacts</u>	Yes, Excel format
Q_9315	ACBC	<u>Application for Competitively Bid Contract</u>	Yes, PDF with original signatures
Q_9299	VRAQ	<u>Vendor Responsibility – Applicant Questionnaire</u>	Yes, PDF with original signatures
Q_9317	EO	<u>Executive Order (EO) 177 Certifications</u>	Yes, PDF with original signatures
Q_9307	EET RFA	<u>Appendix - Existing Employee Training Request for Application</u>	No
	GGPR	<u>Appendix - Grants Gateway Prequalification Requirement</u>	No
	OJZ	<u>Appendix – O*NET and Job Zone Information</u>	No
	PIR	<u>Appendix – Priority Industries by Region</u>	No
	WIOAPC	<u>Appendix – WIOA Partner Contact Information</u>	No
	SCNYS	<u>Appendix - Standard Clauses for all NYS Contracts</u>	No
	CTC	<u>Appendix - Combined Terms and Conditions</u>	No
	GISBA	<u>Appendix - General Information for Successful Bidders/Applicants</u>	No
	MC	<u>Appendix - Master Contract</u>	No
	WIOA	<u>Appendix - WIOA References</u>	No
	MWBE	<u>Appendix - Minority and Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) Requirements and Procedures</u>	No
Q_9331	MWBE-1	<u>MWBE and EEO Policy Statement</u>	Yes, PDF with original signatures
Q_9333	MWBE-2	<u>EEO 100 – EEO Staffing Plan</u>	Yes, PDF with original signatures
Q_9307	MWBE-3	<u>Appendix - EEO 101 – Workforce Utilization Report</u>	No, required quarterly AFTER Contract Award
Q_9296	MWBE-4	<u>MWBE 100 – MWBE Utilization Plan</u>	Yes, for Bidders requesting \$25,000 or more in grant funds, PDF format with original signatures

CFA Portal Question	Acronym	Document Title	Required for submission?
Q_9328	MWBE-5	<u>MWBE 101 – Application for Waiver of MWBE Participation Goal</u>	Yes, for Bidders requesting \$25,000 or more in grant funds and if MWBE participation is anticipated to be less than 15% in MBE and/or 15% WBE, PDF format with original signatures
Q_9307	MWBE-6	<u>Appendix - MWBE 105 – MWBE Quarterly Compliance Report</u>	No, required quarterly AFTER Contract Award
Q_9307	SDVOB	<u>Appendix - Service-Disabled Veteran-Owned Businesses (SDVOB) Requirements and Procedures</u>	No
Q_9339	SDVOB-1	<u>SDVOB 100 – SDVOB Utilization Plan</u>	Yes, for Bidders requesting \$25,000 or more in grant funds, PDF format with original signatures
Q_9307	SDVOB-2	<u>Appendix - SDVOB 101 – SDVOB Monthly Compliance Report</u>	No, required monthly AFTER Contract Award
Q_9340	SDVOB-3	<u>SDVOB 200 – Application for Waiver of SDVOB Participation Goal</u>	Yes, for Bidders requesting \$25,000 or more in grant funds and if SDVOB participation is anticipated to be less than 6%, PDF with original signatures

The three NYSDOL CFA WDI programs are: Existing Employee Training (EET); New Hire Training (NHT), and Unemployed/Underemployed Worker Training (UWT).

Note: This workforce product is partially funded by a grant awarded by USDOL's Employment and Training Administration (ETA). The product was created by NYSDOL and does not necessarily reflect the official position of the USDOL. Neither USDOL nor NYSDOL make any guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership.

REQUEST FOR APPLICATIONS

Consolidated Funding Applications for Workforce Development Initiatives

New Hire Training (CFA WDI - NHT)

Issued on

May 8, 2019

[Amended July 11, 2019 and October 29, 2019]

New York State Department of Labor

Division of Employment and Workforce Solutions

Harriman Office Campus

Building 12, Room 440

Albany NY, 12240

Submission Deadline:

Ongoing

The New York State Department of Labor is an Equal Opportunity Employer. Auxiliary aids and services are available upon request to individuals with disabilities.

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I. Funding Opportunity Description

A. Purpose

The purpose of this Consolidated Funding Application (CFA) for Workforce Development Initiatives (CFA WDI) New Hire Training (NHT) Program Request for Application (RFA) is to secure the services of eligible organizations that can assist the New York State Department of Labor (NYSDOL) by providing on-the-job occupational skills training commensurate with REDC priorities to newly hired employees. Priority funding will be given to businesses that provide training that aligns with significant statewide initiatives as established by Governor Cuomo's Regional Economic Development Councils (REDCs).

B. Background

Building on the eight-year success of the CFA for economic development, Governor Cuomo established this new CFA WDI for workforce development initiatives to support strategic regional efforts that meet businesses' short-term workforce needs, improve regional talent pipelines, expand apprenticeships, and address the long-term needs of expanding industries. This new investment strategy focuses on emerging fields such as clean energy, health technology, and computer science, that have a growing demand for jobs. Funding available under this strategy also seeks to support efforts to improve the economic security of women, youth, and other populations that face significant barriers to career advancement.

As part of this comprehensive workforce development initiative, NYSDOL is offering three parallel funding opportunity programs through the CFA portal; NHT, Existing Employee Training (EET), and Unemployed/Underemployed Worker Training (UWT). Applicants may apply for one or more funding opportunity programs as part of this comprehensive approach. Applicants should apply for all CFA WDI program(s) of interest via one submission. In doing so, Applicants will only have to answer the CFA portal's basic questions, such as contact information and project location, once for all applications.

Regional Economic Development Councils (REDCs)

The REDC initiative is a transformative approach to New York State (NYS) investment and economic development. In 2011, Governor Cuomo established 10 Regional Councils to develop long-term strategic plans for economic growth in their regions. The Councils are public-private partnerships made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations.

The 10 regions are based on existing Empire State Development (ESD) and NYSDOL regional boundaries, which allows for maximum efficiency and the ability to capitalize on existing programs, synergies and relationships. Each REDC considers its region's individual strengths and builds upon existing assets which make them unique in order to develop regional strategies and projects that demonstrate the greatest potential for job creation and economic opportunity.

The REDC initiative uses the CFA as the primary mechanism to fund projects that align with regional and NYS priorities.

II. Award Information

A. Funding

Under this RFA, up to \$6 million (of which \$1 million is federal Workforce Innovation and Opportunity Act (WIOA) funding and \$5 million is NYS reemployment services funding) is being made available to provide on-the-job occupational skills training commensurate with REDC priorities to employees upon being hired. Additional funding may be made available at a later date, depending on program need and the continued availability of funding. Any potential amendments to this RFA, including additional funding being made available, will be posted on NYSDOL's website and in the NYS Contract Reporter. Applications will be accepted and reviewed on an ongoing basis at any time while this funding opportunity is available. Unsuccessful Applicants have the option to modify their application and re-submit, if funding and time remain.

Applicants are eligible to receive reimbursement for up to 75% of the newly hired employees' wages for a period of time appropriate for the employee to become proficient in the occupational skill, but not to exceed one year (maximum award period). For further information on reimbursement levels, see section II.B., V.C., and the Detailed Budget Attachment (DBA) in section VIII of this RFA.

NHT awards may not exceed \$100,000 per Applicant. Applications that request more than \$100,000 will be reviewed and scored by NYSDOL. If the application is awardable, NYSDOL will proportionately reduce the project funding at the time of award to fit within the maximum funding amount. Applications unable to remain viable with the reduced funding will not proceed to contract execution. Therefore, it is highly recommended that Applicants keep the cost and scope of applications within the maximum award amount.

Applicants may only apply for one NHT grant under this RFA, not one per location.

Applicants must draft their CFA funding requests as stand-alone training. The application must not be based in whole or in part on the assumption that they will receive complementary funding from other CFA WDI programs or agencies. The amount of funding requested of NYSDOL should be calculated based on the number of newly hired workers to be trained.

If the Applicant reduces the number of individuals to be trained at any time prior to or after an award is issued, the requested level of funding will be proportionately reduced by NYSDOL.

All awards are subject to funding availability.

B. Use of Funds

The NHT Program is intended to fund on-the-job occupational skills training for newly hired workers in need of skill upgrade training for their job responsibilities immediately after hire.

NYSDOL has established an On-the-Job Training (OJT) wage reimbursement policy for the NHT Program. The reimbursement level to a business may not exceed 75% of the wage rate of the trainee for businesses with 100 or fewer employees and 50% of the wage rate of the trainee for those businesses with more than 100 employees.

Please note that all OJTs must pay at least the NYS minimum wage, which can be found at: <https://www.ny.gov/new-york-states-minimum-wage/new-york-states-minimum-wage>. No funds are available for any other costs under the NHT RFA, including administrative costs, direct and indirect. This RFA does not involve a sub-recipient relationship between the Applicant and NYSDOL, which makes payment of indirect costs unwarranted in this situation.

The newly hired employees who receive training through this opportunity must be hired for full-time employment in NYS, defined as 35 hours per week, paying at least the NYS minimum wage, and with an emphasis on higher wages.

Additional points will be given to applications providing wages higher than the current NYS minimum wage. Wage calculations to determine NHT reimbursement may not include payment for holiday, vacation, sick leave or overtime hours worked (defined as hours in excess of 40 hours per week).

Training must take place on company time while the trainee is engaged in productive work and trainees must be paid wages at no less than the normal rate of pay for employees performing the same duties. Applications wherein the employees attend training on their own time, whether voluntarily or involuntarily, will not be reviewed. Trainees cannot contribute to the cost of the training.

For those Applicants also applying for other NYSDOL CFA WDI funding opportunities, funds for multiple programs cannot be combined to use on the same trainees. For example, an Applicant may not use NHT Program funds to train a newly hired worker on-the-job and then use EET Program funds to send the same worker to classroom training. Each group of trainees must remain separate and distinct and be trained solely under one NYSDOL CFA WDI Program.

1. On-the-Job Training

Permissible training activities under this RFA are further described below.

OJT is training by a business provided to an employee while the employee is engaged in productive work. Further, OJT activities:

- Provide transferable knowledge or skills essential to the full and adequate performance of the job; and
- Are limited in duration as appropriate to the occupation (not to exceed one year for purposes of this RFA) for which the employee is being trained, taking into account the content of the training, the prior work experience of the employee, and the service strategy of the employee.

Please note that the training provided under OJT is to participants who have been hired by the business. Independent contractors or contract employees are not eligible for participation. The Applicant may not apply for the training of seasonal positions or positions that are based on the addition of commission or tips to a sub-minimum wage-based salary.

The Applicant business must be willing to assure that:

- The intention in hiring is for the newly hired employee to remain employed with the business at the same or higher rate of pay upon completion of the training;

- The training will take place during the newly hired employee's work hours (i.e., during the shift/hours for which the worker was hired) and the employee will be paid wages at no less than the employee's normal rate of pay;
- No currently employed worker shall be displaced by the newly hired employee, including a partial displacement such as a reduction in the hours, wages, or employment benefits; and
- Training is in compliance with NYS labor law and federal law for the protection of workers.

2. Restrictions on Types of Trainings

NHT funding will only pay for the eligible costs identified in the Use of Funds Section (II.B.) of this RFA. The following types of trainings do not constitute on-the-job training(s) for this RFA and are not allowed:

- Human Resources training; Basic Safety training; Sexual Harassment training; Diversity training; or Orientation training (the provision of these types of training is a normal cost of doing business);
- Stand-alone remedial training (including "soft skills", such as communication, team development, conflict resolution);
- Training required as part of a federal, NYS or local government mandate (i.e., OSHA);
- Stand-alone Microsoft Office applications (i.e., Word, Excel, PowerPoint, etc.) and other basic office software applications (QuickBooks, Adobe, etc.). Note: this refers to stand-alone courses in individual applications; it does not refer to larger certifications such as Microsoft Office Specialist;
- English as a Second Language (ESL) training (as a standalone course); and
- Any **other trainings deemed inappropriate by NYSDOL**, such as training that does not result in a transferable skill, activities determined to be business consulting rather than training (i.e., coaching, reinforcement, etc.) and any other training(s) that do not meet the intent of the RFA.

If an Applicant is unsure about restricted trainings, it should consider asking specific questions before the Questions Deadline identified in Section IV.A. of this RFA and listed in the RFA Timetable (Section IV.F.).

3. Restrictions on the Use of Funds

NHT funding will not pay for any of the following items:

- Training of undocumented workers;
- Fringe benefits of trainees;
- Supervision costs of trainees;
- Hardware that may be required to access online or distance learning instruction;
- The acquisition, construction, or renovation of buildings or other real estate;
- The purchase of any equipment;
- The purchase of operational software not directly associated with the training (the determination of being directly associated with the training is at NYSDOL's discretion);

- Transportation beyond 550 miles, lodging, and meal costs for relocating in-house or subcontracted trainers for the provision of the proposed training program;
- Advertising (except for recruitment efforts);
- Entertainment;
- Interest costs incurred by provider agencies;
- Costs of organized fund raising;
- Conferences, seminars, or payment of fees associated with attendance at seminars, conferences, or meetings of professional organizations;
- Start-up costs, curriculum development, and assessment costs on the part of the Applicant; and
- Any other costs deemed inappropriate by NYSDOL and that do not meet the intent of the RFA.

C. Leveraged Resources

If costs for the training program are shared with other funding sources, the proposal must identify the leveraged resources used to allocate costs among funding sources.

Although leveraged funds from the Applicant that exceed the reimbursement rate of the trainee's wages are not required, points will be awarded during the scoring process based on the percentage of leveraged funds being used.

D. Contracts

The contract start date for all contracts resulting from this solicitation may be no earlier than the date of the award letter issued by NYSDOL and no later than six (6) months after the date of the award letter. Any training that begins or is paid for prior to the contract start date will fall outside the contract period and be ineligible for reimbursement. Additionally, any training provided after the contract end date will also fall outside the contract period and will be ineligible for reimbursement.

After NYSDOL issues an award letter, the award must go through a contract development and contract execution process and ends with final execution of the contract. Therefore, if an Applicant chooses a contract start date that begins prior to contract execution, the Applicant will be operating at risk for any activities performed prior to the date of final execution of the contract.

Contracts resulting from this solicitation will be awarded for a period of up to one (1) year. Applicants must include only the training opportunities that can be reasonably accomplished within a one-year time period. Under extenuating circumstances, limited no-cost contract extensions may be approved at NYSDOL's discretion. Once a contract is developed and formally executed, the successful Applicant will be considered a NYSDOL Contractor. Funds will be released to the Contractor on a cost reimbursable basis. This means that a Contractor must first pay the expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on the prescribed forms before payment is made. For cost reimbursements to be approved, certain records must be kept, and specific documents submitted. Additional details on reimbursements and payments are outlined under the Payment Section (VI.B.) of this RFA.

Please note that NYSDOL must adhere to New York State Prompt Contracting Law timeframes for executing contracts awarded to not-for-profits entities. This Law provides for interest payments when

contract payments are late due to untimely processing of contracts. However, if there are delays in the contract process on the part of the contractor, Suspension of Prompt Contracting timeframe letters may be issued to render the contractor ineligible for interest for the number of days of delay.

In addition, the United States Department of Labor (USDOL) may conduct an independent evaluation of the outcomes and benefits of NHT funding. By accepting an NHT Program award under this RFA, the Applicant agrees to participate in any such evaluation.

E. Contracting Process

In keeping with the Governor's promise to reform NYS's grant contracting process, NYS has established a standardized statewide grant contracting system called the Grants Gateway, which is designed to facilitate prompt contracting.

All Applicants are required to register in this system in order to enter into a contract with NYS. All Applicants must log-in to the Grants Gateway website at <https://grantsmanagement.ny.gov> and follow the instructions to complete the registration. **The registration form must be signed, notarized and mailed to Gateway Administrators. Plan accordingly to avoid potential delays in applying for upcoming grant opportunities.**

Not-for-profit (NFP) organizations must take the additional step of prequalifying by completing a basic profile and storing organizational documents. **Both registration and prequalification must be completed by NFP organizations prior to submitting an application.** Failure to do so will mean that their application will not be reviewed. NFP organizations will be able to submit their responses online, and, once reviewed and approved by a NYS agency prequalification specialist, the NFP organization will be able to submit an application. All information is stored in a virtual, secured vault. NFP organizations must keep their information current throughout a three-year period, including uploading annual documents (i.e., 990, etc.).

For additional information on registration and prequalification, please log on to the Grants Gateway website at <https://grantsmanagement.ny.gov> or <https://grantsmanagement.ny.gov/resources-grant-applicants>. For additional technical assistance with the Grants Gateway website, please note:

- Hours of Operation: Monday through Friday, 8:00 A.M. to 8:00 P.M. NYS Time;
- Phone Number: 1-800-820-1890; and
- Email: grantsgateway@its.ny.gov.

F. NYSDOL's Responsibilities

NYSDOL will oversee implementation of the contract(s) resulting from this RFA, including regular monitoring of implementation and performance of the contract(s).

Funding for the activities outlined in this RFA will come, in part, from funds available under WIOA and is subject to NYS and Federal legislative appropriation. NYSDOL staff will ensure accurate and timely reporting of program outcomes as well as Federal evaluation documentation as required by USDOL.

G. Applicant Requirements

By submission of an application in response to this solicitation, Applicants agree with Minimum Threshold Requirements (Section V.C.1.) and all of the terms and conditions set forth in the attachments to this RFA.

Applicants must comply with the Combined Terms and Conditions (CTC), which will be incorporated into the Master Contract (MC) of successful Applicants.

H. Participation Requirements

Please refer to Section VIII (Attachments and Appendices) for further information on these participation requirements.

1. Business Participation Opportunities for MWBEs

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

For purposes of this solicitation, NYSDOL has determined that the Contract does not offer sufficient opportunities to set specific goals for participation by MWBEs as subcontractors, service providers, and suppliers to Applicant. NYSDOL hereby establishes an overall goal of 0% for MWBE participation, 0% for NYS certified minority-owned business enterprises ("MBE") participation and 0% for NYS certified women-owned business enterprises ("WBE") participation (based on the current availability of MBEs and WBEs). Nevertheless, Applicant is encouraged to make good faith efforts to promote and assist in the participation of MWBEs on Contracts. The directory of NYS Certified MWBEs can be viewed at: <https://ny.newnycontracts.com>

Applicant is encouraged to contact the NYSDOL MWBE Administrator at 518-474-2678 or labor.sm.MWBEAdmin@labor.ny.gov to discuss methods of maximizing participation by MWBEs on contracts.

2. Equal Employment Opportunity Staffing Plan

An Applicant will be required to submit the Equal Employment Opportunity Staffing Plan (EEO 100, MWBE-2) with its application as evidence of compliance with the foregoing.

By submission of an application in response to this solicitation, the Applicant agrees with all of the terms and conditions of the Master Contract (MC) and the Combined Terms and Conditions (CTC), specifically Section VI.J. Contractors are 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 contractor, 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 NYS.

The Applicant will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (MWBE-1) to NYSOL with its application.

If awarded a contract, an Applicant shall submit a Workforce Utilization Report (EEO 101, MWBE-3) and shall require each of its subcontractors to submit a Workforce Utilization Report, in such format as shall be required by NYSDOL on a quarterly basis during the term of the contract.

Pursuant to Executive Order #162, Contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the EEO 101 (MWBE-3) form on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other NYS 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 NYS 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 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.

3. Participation Opportunities for NYS SDVOBs

Article 17-B of the NYS Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into NYS’ economy. NYSDOL recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of NYSDOL contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in NYS, Applicants are expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, NYSDOL has determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Applicant. Nevertheless, Applicant is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on contracts. The directory of NYS Certified SDVOBs can be viewed at: <https://online.ogs.ny.gov/SDVOB/search>

Applicant is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

III. Eligibility Information

A. Applicant Eligibility

Eligible Applicants for NHT funding include for-profit entities, including corporations, LLCs, LLPs, etc.; and private sector NFP entities which:

- Have or will have openings for employees in need of on-the-job occupational skills training(s). The training(s) must be completed in one year;
- Have two (2) or more employees or the equivalent of two (2) or more full-time employees. Principals of corporations and owners of businesses such as sole proprietors or partners, are not considered to be employees for this eligibility requirement. An Applicant is not eligible to apply if it has no employees or if the workers are independent contractors, subcontractors or contract employees. However, if an Applicant leases its employees for payroll and tax reporting purposes, and has authority over the hiring, firing and scheduling of workers, it is eligible for funding consideration; and
- Are in good standing with regard to the laws, rules, and regulations for: Unemployment Insurance (UI), Worker Adjustment and Retraining Notification Act (WARN), Public Work, Labor Standards, Safety and Health, NYS Department of State Division of Corporations, Workers Compensation Insurance, and Disability Insurance.

NHT funds are separate from any other workforce development funding an Applicant may have received from NYSDOL. Applicants with existing or pending contracts with NYSDOL remain eligible to apply for funding under this NHT RFA, but the application must not propose services to the same individuals as the existing or pending NYSDOL contract(s). If existing contracts are for services identical to those proposed under this NHT RFA, applicants must serve new individuals under the proposed training program and must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract for participant services before an award is made for CFA WDI funding. In addition, the payments requested from awarded contracts under this RFA cannot duplicate reimbursement from other sources of funding.

Consultants, trade organizations and other third-party entities are not eligible to apply for NHT Program funds on behalf of other organizations.

The use of a grant writer is acceptable if the Applicant, and not the grant writer, commits to implementing the proposed training program, if the application is successful.

Eligible Applicants must attest to the Minimum Threshold Requirements as outlined in the Evaluation Criteria Section (V.C.) of this RFA.

An Applicant and its components are only eligible for one award under this RFA, not one per location, and are subject as a whole to the funding limitations described in this RFA. Separate operations or locations of an eligible Applicant may apply separately, but only if they have different Federal Employer Identification Numbers (FEINs). However, NYSDOL will also have to confirm that all such branches, locations, and companies are not part of a greater whole.

B. Trainee Eligibility

A newly hired worker under this NHT RFA must have been hired as an employee of the Applicant business within six (6) months of the start of the training. Newly hired workers must be hired as full-time employees of the Applicant's business and not independent contractors or contract employees. Seasonal positions or positions that are based on the addition of commission or tips to a sub-minimum wage base salary are ineligible for NHT reimbursement. Trainees must work a minimum of 35 hours per week.

The Applicant must attest that no currently employed worker shall be displaced by the newly hired employee, including a partial displacement such as a reduction in the hours, wages, or employment benefits.

In particular, this NHT RFA will provide additional points in scoring to applications indicating a plan to hire and train individuals in priority populations. Priority populations are defined, in Section VII, as individuals who meet the WIOA definition of individuals with barriers to employment and include: Displaced homemakers; Low income individuals; Native Americans; Individuals with disabilities (including youth with disabilities and recovering drug addicts); Older individuals; Individuals currently and formerly involved in the justice system; Homeless individuals or homeless youth; Youth who are in or have aged out of the foster care system; Individuals who are English language learners; Individuals who have low levels of literacy; Migrant and seasonal farm workers; and Single parents (including single pregnant women).

In addition, as permitted by WIOA Section 3(24) for this NHT funding opportunity, NYSDOL recognizes the following individuals as having barriers to employment: Long term unemployed workers (defined as individuals who, at the time the NHT-funded program starts, were unemployed for 20 weeks or more); TANF and SNAP recipients; and Veterans.

Please note that this solicitation is federally funded, therefore all men born on or after January 1, 1960, who will be served under this RFA, must be registered with Selective Service.

If a male participant is between the ages of 18 and 26, he may register online at <https://www.sss.gov/Registration-Info> and provide his registration number on the Trainee Information Form. If a male participant is not registered and is 26 years of age or older, he must sign an Attestation stating that his failure to register was not willful. The Trainee Information Form and the Attestation Form will be provided to each Applicant after an award is made.

A list of those who are required by law to register with Selective Service may be found online at <https://www.sss.gov/Registration-Info/Who-Registration>.

C. Program Services

1. Occupational Skills Training and Career Development

On-the-job occupational skills training is defined as instruction conducted in a worksite setting designed to provide individuals with, or upgrade them in, the skills required to perform a specific job or group of jobs needed by the business.

Applicants will be required to describe their strategies to identify eligible trainees and build awareness of career development among trainees.

2. Credentials

Occupational skills training may assist in the development of a career ladder which improves a trainee's skills, often providing a credential to the trainee, while also leading to a long-term career in higher skills occupations.

Credential is defined as an attestation of qualifications or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. A credential is not a certificate of completion for a course. Examples of credentials include:

- A secondary school diploma or its recognized equivalent; and
- Recognized postsecondary credentials which include Associate's and Bachelor's degrees; occupational licensures; occupational certificates, including Registered Apprenticeship and Career and Technical Education educational certificates; occupational certifications; and other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Recognized postsecondary credentials must be awarded in recognition of an individual's attainment of measurable or industry/occupational skills and not the attainment of work readiness or general skills only (i.e., safety, hygiene, and computer security).

Credentials are generally achieved for skills improvements that are crucial to talent development for businesses and are often portable and transferable across multiple industries. Stackable credentials, which are part of a sequence of credentials that can be accumulated over time, build up an individual's qualifications, and help the individual to move along a career ladder to potentially higher-paying jobs.

While an Applicant can apply if the proposed training program does not provide a credential, additional points will be awarded during the scoring process to those programs that help trainees achieve credential(s) given by third-party issuers or accredited institutions.

Credential is defined in Section VII of this RFA.

3. Alignment with WIOA Regional Priorities

Applicants that align their proposed occupational skills training program with the priorities outlined in WIOA Regional Workforce Plans regarding priority industries and sector strategies will be awarded additional points in scoring. Regional Plans from 2016 may be found at <https://labor.ny.gov/workforcenypartners/lwda/regional-plans.shtm>. A spreadsheet of priority industries by region from the 2016 Regional Plans is attached to this RFA (PIR Attachment).

Applicants can propose training for multiple titles within a selected industry or across industries based on the occupational skill training needs of the business. Applicants must indicate a single industry to which the majority of the proposed program will serve.

4. Target Geography

NHT funding will promote availability of occupational skills training programs leading to employment of trainees in distressed communities by providing additional points during scoring to programs identified as serving counties identified in high need areas. Applicants must determine which county the

proposed training program will serve. If multiple counties will be served, Applicants are asked to identify the county to which the majority of the trainees will be from. NYSDOL will make a determination if the proposed training program is offered in locations of high, moderate, or low need counties (see the full list of Counties of Need in [Section VII](#) of this RFA).

5. Reporting Requirements

The contractor must submit individual participant level data to NYSDOL. NYSDOL staff will record this data in the One-Stop Operating System (OSOS).

OSOS is NYSDOL's case management system and is used to record basic participant information, as well as to track the provision of required services. OSOS is a web-based job matching, case management, and reporting system that allows workforce professionals to effectively manage workforce development programs.

NYSDOL may require quarterly reports on program updates, progress, and success. This may include information beyond the available data in OSOS.

IV. Process for Application Submission

A. Questions Concerning this RFA

Applicants may submit questions via electronic mail to CFA@labor.ny.gov. Questions regarding the RFA will be accepted until funds are exhausted. No telephone inquiries will be accepted. All inquiries should include the following reference in the Subject line: "CFA WDI NHT Question". Answers to all questions will be posted on the NYSDOL website (<http://labor.ny.gov/businessservices/funding.shtm>) on an ongoing basis.

The NYSDOL CFA WDI Team cannot see applications in the CFA portal until applicants successfully complete the threshold questions and are in progress. The NYSDOL CFA Team can only answer program related questions. Applicants should direct any technical questions about the CFA portal to cfa-tech@ny.gov.

B. Assistance in Completing this RFA

Eligible Applicants may speak with a NYS Career Center Business Services Representative (BSR) for technical assistance or support during the development of the application. BSRs contact information may be found at the following link: <https://www.labor.ny.gov/formsdocs/factsheets/pdfs/p469.pdf>.

C. Application Due Date

The completed application with all required attachments must be submitted through the CFA portal, <https://apps.cio.ny.gov/apps/cfa/>, on an ongoing basis until funds are exhausted. NYSDOL takes no responsibility for any third-party error in the delivery of applications (i.e., public computer access, internet service provider, etc.).

D. Application Submission Instructions and Format

All fields in the Application must be completed in the CFA portal, available online at <https://apps.cio.ny.gov/apps/cfa/>. The CFA portal institutionalized the role of the REDCs in identifying priorities for NYS resources. The CFA portal is a modern and easy-to-use application, providing resources to help Applicants, and includes the CFA application step-by-step guide with screenshots, CFA application questions and answers, recorded webinars, and available in-person CFA workshops (<https://regionalcouncils.ny.gov/> - CFA Application Guide).

Applications must be marked as “submitted” in the CFA portal in order to be reviewed. No faxed or hard copy applications will be accepted. If the Applicant does not have the technological capability to access, complete and submit the CFA, it may do so at its nearest Career Center (please find the nearest location on the NYSDOL’s website at: <http://labor.ny.gov/career-center-locator/>).

Once the application is submitted, there is no ability to resubmit or edit a threshold question. The Applicants will need to register with a new token and start a brand-new application, if a threshold question was answered incorrectly.

Applicants should apply for all CFA WDI program(s) of interest via one submission. In doing so, answers to the CFA portal’s basic questions, such as contact information and project location, will only be required to be entered once.

To ensure that questions specific to the program(s) to which the Applicant is applying are answered, the Applicant should log into the application in the CFA portal and click the word “Programs” located toward the left of the screen; just below the Application number. From this screen, the Applicant can add or remove programs and their associated questions.

All required documents must be completed and uploaded as attachments in the CFA portal. Please note that uploading blank, incomplete or unsigned attachments to the application may render the Applicant ineligible for funding consideration.

Required application attachments and the requested submission format are listed below:

- 1) Detailed Budget Attachment (DBA) – Excel format;
- 2) Bid Worksheet (BW) – PDF format;
- 3) Key Contacts (KC) – Excel format;
- 4) Application for Competitively Bid Contracts (ACBC) – Signed and in PDF format;
- 5) Vendor Responsibility Applicant Questionnaire (VRAQ) – Signed and in PDF format;
- 6) NYS Executive Order 177 Certification (EO) – Signed and in PDF format;
- 7) MWBE and EEO Policy Statement MWBE-1) – Signed and in PDF format; and
- 8) Equal Employment Opportunity (EEO) Staffing Plan (MWBE-2) – Signed and in PDF format.

Applicants must acknowledge that they have reviewed the following informational attachments prior to the submission of the application in Standard Question 9363. Failure to answer this question will prohibit the Applicant from proceeding with submission of the application.

- 1) Appendix – New Hire Training Request for Application
- 2) Appendix - Grants Gateway Prequalification Requirement
- 3) Appendix – Priority Industries by Region

- 4) Appendix – Determining Priority Populations
- 5) Appendix - Standard Clauses for all NYS Contracts
- 6) Appendix - Combined Terms and Conditions
- 7) Appendix - General Information for Successful Bidders/Applicants
- 8) Appendix - Master Contract
- 9) Appendix - WIOA References
- 10) Appendix - Minority and Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) Requirements and Procedures
- 11) Appendix – EEO 101 – Workforce Utilization Report

E. Grants Gateway Registration and Prequalification Status

As indicated in Section II.E. of this RFA, all interested parties must be registered in the Grants Gateway prior to application submission and all non-governmental NFP Applicants must be designated in one of the status categories listed below prior to application submission:

1. Document Vault Prequalified

- a) Fully Prequalified

2. Document Vault Prequalified Open

- a) If an organization proactively opens its document vault before the required documents expire, it will go to this status.
- b) The Organization will not lose prequalification status unless an expiration date passes.
- c) This allows NFPs to apply for funding opportunities without losing prequalification status.

3. Document Vault Prequalified/In review

- a) This status is only available if an organization has proactively opened its vault prior to document expiration and has submitted it with updated documents.
- b) The organization is still considered prequalified during this status EVEN IF the expiration date passes.

4. Document Vault Prequalified/Open for Prequalification Specialist (PQS) Edits

- c) NYSDOL is making edits and prequalification status is maintained.

Once it is determined that a non-governmental NFP Contractor is prequalified, the organization must maintain prequalification status during the contract period. The organization will be given an opportunity to submit documents and information to the Grants Gateway in order to maintain or regain prequalification status.

For more information about Grants Gateway and Prequalification, please visit the Grants Gateway website <https://grantsmanagement.ny.gov> or contact the Grants Management Team at: grantsreform@its.ny.gov. The Grants Management help desk/hotline can be reached at (518) 474-5595.

NYSDOL will consider any application not meeting the Grants Gateway registration or non-governmental NFP Applicant pre-qualification requirements prior to submission of the applications to be non-responsive.

F. RFA Timetable

- RFP Release Date – May 8, 2019
- Deadline Date for Questions – Ongoing
- Deadline Date for Responses to Questions – Ongoing
- Application Due Date – Ongoing
- Projected Notification of Awards – Ongoing as received

V. Application Review and Selection

A. Application Process

Under the CFA WDI, the application process will take place in two (2) phases. During Phase One, interested Applicants will submit a general project plan to the REDC in their region, which will be reviewed by the REDC Workforce Development Committee. The REDC Workforce Development Committee will make recommendations to the REDC's Executive Committee, who will decide which applications advance to Phase Two. Additional information about the WDI process and the Phase One application is available at <https://www.ny.gov/workforcedevelopment>.

Note, during WDI Phase One, only the project plan questions will be available in the CFA portal. This does not include the Minimum Threshold Requirement, Program Design, Work Plan, and Budget questions specific to NYSDOL's RFAs. These questions will be made available during Phase Two.

Applicants that advance to Phase Two will be notified by the Office of Workforce Development and granted access to the appropriate WDI program questions to complete and submit. These Phase Two questions address the specific requirements of all RFAs for which the applicant is eligible to apply, including NYSDOL's EET, NHT and UWT programs.

For further information regarding Phases One and Two of the Workforce Development Initiative Process, refer to <https://www.ny.gov/workforce-development-initiative/workforce-development-initiative-process#project-identification>.

B. Evaluation of Phase Two Applications

A complete application, including the DBA and all other required attachments must be submitted via the CFA portal so that NYSDOL can conduct a full and proper evaluation. Failure to answer all questions in the application will jeopardize the Applicant's potential for funding. NYSDOL will make an initial eligibility determination on each application received. Applications deemed eligible will be scored based on further review and evaluation. Application scores will consist of 65% for Program Design, 15% for Work Plan, and 20% for Program Cost. Scoring of technical merit will award points based on a "criteria met" or "criteria not met" scale. NYSDOL reserves the right to make no awards.

Applications must first meet all Minimum Threshold Requirements, Section V.C.1, of this RFA. Upon receipt of all required application components and confirmation of Minimum Threshold Requirement attainment, NHT applications will be evaluated by NYSDOL staff. NYSDOL staff will score applications based on the Program Design, Work Plan, and Program Cost described in the Evaluation Criteria Section (V.C.) of this RFA.

Program outcomes based on past performance related to retention of employees after the completion of training, their attainment of credentials, and potential wage increases are considered in NYSDOL's award determinations.

C. Evaluation Criteria

The Evaluation Criteria has four parts: the Minimum Threshold Requirements; the Program Design; the Work Plan; and the Program Cost. The evaluation of the application will consist of a review of each part separately.

Applications deemed eligible will be scored based on further review and evaluation. Application scores will consist of 80% on Technical Merit (65% on Program Design and 15% on Work Plan) and 20% on Program Cost.

1. Minimum Threshold Requirements

Failure to attest to and document Minimum Threshold Requirements will result in an automatic rejection of the application and scoring will not proceed. No points will be awarded for Minimum Threshold Requirements. Applicants must attest to each of the following:

- 1) (Q_9310) Applicant is a for-profit entity, including corporations, LLCs, LLPs, etc. or a private sector NFP entity;
- 2) (Q_8746) Applicant is in good standing with regard to the laws, rules, and regulations for: UI, WARN, Public Work, Labor Standards, Safety and Health, NYS Department of State Division of Corporations, Workers Compensation Insurance, and Disability Insurance;
- 3) (Q_9260) Applicant has two (2) or more employees, or the equivalent of two (2) full-time employees (these employees may work part-time as long as it is a permanent, year-round position whose work performance is integral to the service or product provided by the business and who is economically dependent on the business);
- 4) (Q_9261) The application was developed by the Applicant and all language therein is presented at the request of the Applicant. The use of a grant writer is acceptable, only if the Applicant and not the grant writer, commits to implementing the training listed in the application, if the application is successful;
- 5) (Q_9262) Applicant agrees to submit reports to NYSDOL on an as needed basis for the purposes of meeting federal and NYS reporting requirements and understands such reporting may include identifiable information related to both the Applicant and the Trainee;
- 6) (Q9311) Applicant will ensure no currently employed worker shall be displaced by the newly hired employee, including a partial displacement such as a reduction in the hours, wages, or employment benefits;

- 7) (Q_9312) Applicant is responsible for identifying eligible trainees as defined in the RFA;
- 8) (Q_9265) Applicant will not charge or expect any trainee served under this proposed training program to pay any tuition charges or other fees;
- 9) (Q_8749) Applicant understands that all Applicants must register in the Grants Gateway system (<https://grantsmanagement.ny.gov>) before application submission.
- 10) (Q_8750) Applicant understands that all non-governmental NFP organizations must prequalify before application submission and must be in an acceptable pre-qualification status in the Grants Gateway system (<https://grantsmanagement.ny.gov>);
- 11) (Q_9305) It is the intention of the Applicant that the employees to be trained will continue to work in NYS upon completion of the training;
- 12) (Q_9306) None of the funds being requested under this application will be used in the relocation of employment from facilities in other locations which will result in an employee losing his or her job at the original location;
- 13) (Q_9304) Training will take place on company time and trainees will be paid wages at no less than the normal rate of pay while they attend training;
- 14) (Q_9263) Applicant will comply with NYS labor law and Federal law for the protection of workers; and
- 15) (Q_9264) If awarded, job openings that occur during the contract period will be listed with the NYSDOL Job Bank. To place a job order, visit:
<http://www.labor.ny.gov/businessservices/services/perm.shtm>.

2. Program Design – 65 Points

Applicant must fully answer each part of the questions listed in the CFA portal and submit applicable attachments. Note that the CFA portal requires answers to Threshold questions; Location questions; and completion/upload of required attachments listed in [Section VIII](#) of this RFA prior to the completion of Standard questions, which NYSDOL refers to as Program Design.

Business/Industry Demand (18 points)

- 1) (Q_2950) Enter your Federal Employer Identification Number (FEIN) (0 points);
- 2) (Q_9388) Indicate the priority industry to which the Applicant business belongs. For information on priority industries, see the PIR attachment in [Section VIII](#) of this RFA. (2 points)
- 3) (Q_9389) Describe what the Applicant business does, and how the business aligns with regional priorities. For information on regional priorities, see [Section III.C.3.](#) of this RFA. (3 points)
- 4) (Q_9390) Describe the compelling need for the proposed training, including (10 points):
 - i. Projected hiring for the industry in the Applicant's local economy;
 - ii. The number of trainees to be filled under this funding;

- iii. Job titles and a brief description of each job title; and
- iv. How these newly hired trainees will have a positive impact on the Applicant's business.

5) (Q_9414) Describe the Applicant's business need to hire new employees. (3 points)

Target Geography (4 points)

6) (Q_9391) Indicate the county where the trainees' official work station will be located. (4 points)

Target Population (6 points)

- 7) (Q_9392) Describe the characteristics of the Applicant's ideal candidates, including education level, occupational knowledge, skills, and abilities. (2 points)
- 8) (Q_9393) Describe the proposed strategy for identifying potential new hires, including working with workforce partners, placing job orders, or advertising for recruitment. (2 points)
- 9) (Q_9394) Indicate one or more priority population(s), if any, to be served under the proposed training program. For more information regarding priority populations, refer to the DPP Attachment in Section VIII of this RFA.). (2 points)

Occupational Skills Training /Career Development (23 points)

- 10) (Q_9395) Provide a summary of the training to be provided to the newly hired employees, including:
- i. A detailed training outline of the skills to be learned during the training period for each job title, emphasizing the occupational skills to be learned (6 points);
 - ii. The total number of hours of training per week, and total number of weeks of training, for each job title (3 points);
 - iii. A list of who will provide the training and the experience that person has delivering the training (4 points); and
 - iv. A description of the plan to monitor trainee progress, details on making adjustments as needed, and how successful outcomes will be evaluated (4 points).
- 11) (Q_9396) Describe how the occupational skills to be acquired by the trainees are recognized and transferable, either industry-wide or used across multiple industries. If the skills are used across multiple industries, list those industries. (2 points)
- 12) (Q_9397) Describe the educational component of the proposed training program that will teach the trainees about career development within and across industries. For information on career development, see Section III.D of this RFA. (2 points)
- 13) (Q_9398) Provide the name, description(s), and the authority or third-party issuer of the specific credential the trainees will receive at the conclusion of the training. For the definition of credential see Section VII of this RFA. (2 points)

Leveraged Funding (2 points)

- 14) In the CFA portal budget table, identify the use, source, status, and dollar amounts of leveraged funding (if any). No narrative is required for this question and NYSDOL will make the calculations for leveraged funds based on the CFA portal budget table provided by the Applicant. (2 points)

Organizational Capacity/Experience (6 points)

- 15) (Q_9399) How many years has the Applicant offered similar occupational skills training (No experience; 1-2 years; 3 or more years)? (2 points)
- 16) (Q_9400) Describe any past training programs the Applicant has provided (including any grant funds received), including the number of individuals trained, the specific occupational skills learned during training, and any nationally accredited credentials that were earned. (2 point)
- 17) (Q_9401) For past training programs, how many trainees were retained for at least one year (Percentages of N/A; 0%-20%; 20.01%-50%; 50.01%-100%)? (2 points)

Outcomes (6 points)

- 18) (Q_9406) Select the geographical area where the proposed program is offered.
- (Q_9407) If the project is located in New York City: Select the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training: Minimum wage (\$15.00) to \$16.50; \$16.51 to \$18.00; \$18.01 to \$19.50; \$19.51 and up.
 - (Q_9408) If the project is located in Long Island or Westchester County: Select the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training. Minimum wage (\$12.00) to \$13.50; \$13.51 to \$15.00; \$15.01 to \$16.50; \$16.51 and up.
 - (Q_9409) If the project is located in the rest of New York State: Select the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training. Minimum wage (\$11.10) to \$12.60; \$12.61 to \$14.10; \$14.11 to \$15.60; \$15.61 and up. (3 points)
- 19) (Q_9404) Does the Applicant's proposed training program result in a nationally accredited credential?
- If yes:
- (Q_9405) Provide the name of the accreditation entity? (1 point)
- 20) (Q_9402) What is the Applicant's annual revenue? (0 points)
- 21) (Q_9403) What is the Applicant's annual revenue in relation to the total CFA WDI funding request? (40.01% or more of total organizational revenue; 10.01% to 40% of total organizational revenue; Less than or equal to 10% of total organizational revenue (2 points)

Existing Contracts (0 points)

- 22) (Q_10370) Does the Applicant have an existing contract(s) with NYSDOL for services identical to those proposed under this NHT RFA? (0 points)

If yes:

(Q_10371) Does the Applicant understand that it must serve new individuals under the proposed training program and that it must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract(s) before a CFA WDI award is made? (0 points)

3. Work Plan – 15 Points

In the Work Plan Attachment (WPA), the Applicant will define the objectives, tasks, and performance measures that will detail the proposed plan to ensure training and service activities, as identified in the Program Design. Applicants can include objectives, tasks, and performance measures, including the following:

- The objectives are realistic and align with activities as proposed in the Program Design;
- The tasks as described align with the associated objective and upon completion will attain the objective (Applicant should include critical tasks to be performed for attaining the relevant objectives and performance measures);
- The performance measures, as proposed, will measure the associated objective attainment; and
- The performance will evaluate project effectiveness. The performance measures must be SMART: specific, measurable, achievable, relevant, and time-oriented (who will do what, how it will be counted, how often, when to evaluate the tasks and objectives).

Performance measures include, but are not limited to, the number of trainees attaining licensing/credential; trainee participation and satisfaction; the increase in trainee wages; business productivity enhancement; and training evaluation outcomes.

4. Program Cost – 20 Points

An Applicant may receive up to 20 points for the program cost. All allowable costs requested from CFA and leveraged funds must be entered in the CFA portal budget table as described below. For a list of restricted use of funds, please see the Restrictions on Types of Training Section (II.B.2.) and the Restrictions on Use of Funds Section (II.B.3.) of this RFA.

CFA Portal Budget Table

The CFA budget portal table has five columns:

- Use – Select "Proposed Program";
- Source – Indicate whether the cost is requested from CFA funding or is leveraged funds;
- Status – Indicate whether the funding included in the Source column is Anticipated or Secured;
- Amount – Provide the amount, in dollars, for each item from the Use column; and
- Indicate Source/Comments – Provide applicable specifics such as the source of leveraged funds and their use.

The maximum training cost requested under this RFA is up to 75% of trainees' wages for the duration of the training. Calculate the reimbursement amount by multiplying trainee wages, hours of training and applicable reimbursement rate. An Applicant may have additional costs of training that could be

entered as leveraged resources. Additional points are given during scoring for leveraged funds as outlined in Evaluation Criteria ([Section V. B.](#)) of this RFA.

The rows in the CFA budget table allow the Applicant to enter the source of the cost by using drop-down options. More rows can be added to the table by clicking “Add Rows.”

A complete and correct CFA portal budget table will help Applicants obtain the most accurate cost score.

Detailed Budget Attachment

Applicants must also complete and submit the [DBA](#) with their application. The DBA requires specific detail on the costs of the proposed On-the-Job occupational skills training. This detail will be incorporated into the contract of successful Applicants.

The application will be assigned points for Program Cost on an all or nothing basis (either 20 points or 0 points) depending on whether or not it fully provides the following information for each proposed new hire on the DBA: (1) the job title; (2) the number of planned trainees (new hires) for each proposed job title; (3) the duration of training (in terms of number of hours) for each planned trainee; and (4) the estimated hourly wage rate of each planned trainee. If a complete DBA, including all required information, is not submitted, the Application will be found non-responsive and will not be funded. Applicants whose applications are found non-responsive have the option to correct and re-submit, if sufficient time and funding remain.

The calculated cost per trainee from the application cannot be exceeded in contracts developed from awards.

NYSDOL reserves the right to request additional information from Applicants during the cost scoring process if the budget information provided is unclear.

If it is determined unallowable costs were included in the DBA during the Program Cost review, those costs may be removed during the award process and/or contract development, and will not be included in the contract of the successful Applicant.

D. Method of Selection

Applications must first be approved by the REDC’s Executive Committee during the Phase One review outlined in Application Process ([Section V.A.](#)), and then meet all minimum eligibility requirements outlined in the Minimum Threshold Requirements Section ([V.C.1.](#)) of this RFA.

Applications that meet all minimum eligibility requirements will proceed to the review phase, where the application will be scored for Technical Merit (worth up to 80% of the total) by NYSDOL’s Program Staff, and Program Cost (worth up to 20% of the total) by NYSDOL’s Finance Bureau. Scores for each portion of the evaluation will be combined and result in an Application Final Score.

A complete response to each question is crucial to ensure full points are awarded.

Applications will be reviewed in the order they are received. Each application will be scored on its individual merit and will not be compared to other applications. Eligible applications that attain an Application Final Score of 70 points or more will be awarded funding. Successful applicants will be

awarded on a continuous basis until the funds allocated to the NHT Program are exhausted. Eligible Applicants that fail to attain a total score of 70 points will be notified via letter and are eligible to revise their applications and reapply, if sufficient time and funding remain.

If an application achieves a score that would be awarded, but the costs are not reasonable to NYSDOL and/or the skills are not transferable, NYSDOL reserves the right to reject the application.

NYSDOL may award a contract for any or all parts of an application and may negotiate contract terms and conditions to meet agency program requirements consistent with the RFA.

Any unallowed costs will be costs not permitted under the requirements of this RFA.

It is important to note that:

- Ineligible Applicants will be disqualified before completing a review;
- Incomplete applications will be disqualified;
- All Applicants that are determined not to be responsive or responsible will be disqualified after completing a review;
- Applications that fail to meet requirements may be disqualified; and
- NYSDOL reviews will result in a final score.

VI. Award Administration and Information

A. Award Notices

All Applicants will receive a letter informing them of the decision on their application and successful Applicants will be contacted by NYSDOL's contract development staff. If awarded, the Applicant will also be notified of the maximum amount it has been awarded.

Applicants who receive an award must be prepared to enter into contract negotiations immediately and begin trainings no later than six (6) months from the date of the award letter. NYSDOL reserves the right to rescind the award of any Applicant that is unable or unwilling to promptly engage in the contracting process or to begin conducting its trainings in accordance with the terms of the contract.

Applicants that have existing contracts for services identical to those proposed under this NHT RFA must serve new individuals and must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract for participant services before an award will be made under the CFA WDI.

Applicants that receive an award under this program, successfully serve at least 75% of the planned participants, and have expended at least 75% of the awarded funds may apply again, if funding and time remain.

Applicants not awarded are entitled to request a debriefing from NYSDOL, which may include the reason(s) for the non-award and general guidance on the part(s) of the evaluation criteria that were not met. Such debriefing shall be requested within 15 calendar days of the notice of non-award. NYSDOL will respond to the debriefing request within a reasonable amount of time.

B. Payment

Once a contract has been developed and formally executed, funds will be released on a cost reimbursement basis. A Contractor must first pay for incurred expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on the prescribed forms before payment is made. For cost reimbursements to be approved, certain records must be kept and specific documents submitted. Successful Contractors must provide documentation that the service was provided. This will include attendance records for each training session to document attendance and/or certificates of completion showing the participant completed all required elements of the training. Attendance sheets must include the Name of the Trainee, Signature of the Trainee, Signature of the Trainer, and Date and Hours of Training.

Please be advised that trainings may not begin until after an award is made. This includes the completion of application reviews, due diligence being confirmed, awardees determined, and award letters being issued. The start date for all contracts resulting from this solicitation may be no earlier than the date of the award letter issued by NYSDOL. Any training that begins and/or is paid for prior to the date of the award letter will fall outside the contract period and be ineligible for reimbursement. Further, all activities funded by the contract must end on or before the end date of the contract and any activities that occur after the end date of the contract will not be eligible for reimbursement.

NFP organizations funded under the NHT Program are eligible for a cash advance of their award, up to 25% of total contract value, upon contract execution at the sole discretion of NYSDOL and subject to the availability of funds appropriated and available for contracts entered into pursuant to this solicitation. Any award must be expended on program activities in NYS.

Electronic Payments – Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary NYS procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptrollers website at www.osc.state.ny.us/epay/index.htm, by email at helpdesk@sfs.ny.gov, or by telephone at 855-233-8363. The Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

C. General Requirements

All applications and accompanying documentation will become the property of NYS and will not be returned. The content of each Applicant's application will be held in strict confidence during the evaluation process, and no details of the application will be discussed outside of the evaluation process. The successful Applicant's application and portions of the RFA deemed applicable by NYSDOL will be made part of the contract. Therefore, an official authorized to commit the company to a contract must sign the application.

D. Buy American Requirements

Applicants should be aware of the requirements of the Workforce Innovation and Opportunity Act (WIOA), Section 502 which provides that none of the funds made available under Title I or II of WIOA or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. sections

8301 through 8303). It is the sense of Congress that entities receiving assistance should, in expending the assistance, purchase only American-made equipment and products. See WIOA, Section 502 – Buy American Requirements included in the WIOA References (WIOA) attachment of this RFA.

E. Federal and NYS Executive Orders

Please note that the Federal Workforce Innovation and Opportunity Act funds supporting this initiative are subject to the following federal Executive Orders:

- Executive Order 13513 – Sec. 4. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Sub-recipients. Contractors, subcontractors, and recipients and sub-recipients are encouraged to adopt and enforce policies that ban text messaging while driving a vehicle when performing official Government business or work on behalf of the Government, and to conduct initiatives of the type described in section 3(a) of the Executive Order.
- Executive Order 12928 – The recipients are strongly encouraged to provide contracting/subcontracting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Business Owned and Controlled by Socially and Economically Disadvantaged Individuals.
- Executive Order 13043 – Recipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.
- Executive Order 13166 – Recipients must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to programs in accordance with USDOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with LEP Volume 68, Number 103, Page 32289-32305. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.
- NYS Executive Order 177 – see [Section VIII](#) for further information.

F. Reservation Clauses

NYSDOL, in order to serve the best interests of NYS, reserves the right to:

- 1) Make no award;
- 2) Postpone or cancel this RFA upon notification to all Applicants;
- 3) Amend the specifications after their release with appropriate notice to all Applicants;
- 4) Move funding allocated among the NYSDOL CFA WDI programs if one or more of the programs have a shortage (or surplus) of: Applicants, quality applications, and/or funding requests;
- 5) Remove applications with unreasonable costs from award consideration;
- 6) Request Applicants to present supplemental information clarifying their application, either in writing or in formal presentation. Applicants failing to respond to these requests during the time allotted may be eliminated from funding consideration;
- 7) Waive or modify minor irregularities in applications received after prior notification to the Applicant. This will in no way modify the RFA documents or excuse the Applicant from full compliance with the RFA terms and conditions;

- 8) Correct any arithmetic errors in any application;
- 9) Reject any and all applications received in response to this RFA;
- 10) Contact Applicants' references as a check on qualifications;
- 11) Award contracts to more than one Applicant;
- 12) Negotiate with selected Applicant prior to contract award;
- 13) Rescind the award of any Applicant unable or unwilling to begin conducting its training activities immediately following contract execution. No Applicant will have any rights against NYSDOL arising from such negotiations;
- 14) Make any payment contingent upon the submission of specific deliverables; and
- 15) Require that all offers are held open for a period of 120 days unless otherwise expressly provided for in writing.

VII. Definitions

- 1) **Business Services Representatives:** Staff across NYS dedicated to assist businesses with their workforce needs including the NYS Job Bank and NYTalent, tax credits and other hiring incentives, apprenticeship programs, HR consultation, and layoff aversion. To contact a Business Services Representative, please find their contact information at <https://labor.ny.gov/formsdocs/factsheets/pdfs/p469.pdf>.
- 2) **Career Center System Required Partners (AKA Career Center Partners):** New York's Career Center System is funded by WIOA, and is made up of 33 LWDBs that oversee their respective Local Workforce Development Areas (LWDAs) and 96 Career Centers. The System includes:

Core Program Partners:

- NYS Department of Labor-Responsible for delivering services under WIOA Titles I (Adult, Dislocated Workers, and Youth) and III (Wagner-Peyser);
- NYS Education Department-Responsible for delivering services under WIOA Titles II (Adult Education and Literacy) and IV (Vocational Rehabilitation); and
- NYS Office of Children and Family Services/Commission for the Blind - Responsible for delivering services under WIOA Title IV (Vocational Rehabilitation).

Other Career Center Partners:

- Temporary Assistance for Needy Families (TANF);
- Career & Technical Education;
- Title V Older Americans Act;
- Job Corps;
- Native American Programs;
- National Farmworkers Job Programs/Migrant and Seasonal Farmworker Programs;
- Jobs for Veterans State Grants (Chapter 4 of Title 38);
- YouthBuild;
- Trade Adjustment Assistance activities under the Trade Act of 1974, as amended;
- Community Service Block Grant Employment and Training activities;
- Housing and Urban Development Employment and Training activities;
- Unemployment Compensation; and
- Second Chance Act Reentry Employment Opportunity (REO) programs.

The Career Center System may also include strategic partners from education, economic development, and industry.

- 3) **Counties of Need:** NYSDOL assigns each county of NYS into high, moderate, or low need based on indicators such as population, adult poverty rates, adult unemployment rates, adult literacy rates and the level of education attainment.

High Need	Medium Need	Low Need
Bronx	Allegany	Albany
Broome	Cayuga	Chemung
Cattaraugus	Chenango	Columbia
Chautauqua	Clinton	Cortland
Franklin	Delaware	Dutchess
Fulton	Erie	Essex
Greene	Jefferson	Genesee
Hamilton	Lewis	Livingston
Herkimer	Onondaga	Madison
Kings	Otsego	Nassau
Monroe	Rockland	Niagara
Montgomery	Schenectady	Ontario
New York	Schoharie	Orange
Oneida	Seneca	Putnam
Orleans	Steuben	Rensselaer
Oswego	Suffolk	Richmond
Queens	Tompkins	Saratoga
Schuyler	Ulster	Tioga
St. Lawrence	Washington	Warren
Sullivan	Westchester	Wayne
Yates		Wyoming

4) Credential: An attestation of qualification or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. It does not refer to a certificate of completion for a course. Examples of credentials include:

- A secondary school diploma or its recognized equivalent; and
- Recognized postsecondary credentials which include Associate's and Bachelor's degrees; occupational licensures; occupational certificates, including Registered Apprenticeship and Career and Technical educational certificates; occupational certifications; and other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Recognized postsecondary credentials must be awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills and not the attainment of work readiness or general skills only (i.e., safety, hygiene, and computer security).

5) Customized Training (WIOA Sec. 3 (14)): Training that is:

- Designed to meet the specific requirements of a business (including a group of businesses);
 - Conducted with a commitment by the business to employ an individual upon successful completion of the training; and
 - For which the business pays:
 - A significant portion of the cost of training, as determined by the local board involved, taking into account the size of the business and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to competitiveness of a participant, and other business-provided training and advancement opportunities; and
 - In the case of customized training involving a business located in multiple local areas in NYS, a significant portion of the cost of training, as determined by the Governor of NYS, taking into account the size of the business and such other factors as the Governor determines to be appropriate.
- 6) **Distance Learning:** A method of classroom instruction wherein the trainee receives lessons remotely such as over the internet, via email or by mail.
- 7) **Full-Time Employment:** 35 hours per week or more.
- 8) **Human Resources (HR) Training:** Trainings needed or required to be provided to employees to better understand the workplace to improve the work environment and are not specific to the job or occupation of the employees. The provision of these HR trainings is a normal cost of doing business and is the responsibility of the business. Examples include, but are not limited to, basic trainings about: sexual harassment, diversity, new employee orientation, accessing reasonable accommodation, cyber security, internal controls, internet security, workplace violence, human relations and sensitivity at the work place, fire safety and evacuations, and workplace hazards that do not typically provide specific occupational skills.
- 9) **Individual with a Barrier to Employment (WIOA Sec. 3 (24)):** A member of one or more of the following populations:
- Displaced homemakers;
 - Low-income individuals;
 - Indians, Alaska Native, and Native Hawaiians as such terms are defined in 29 USCS § 3221;
 - Individuals with disabilities (including youth with disabilities and recovering addicts);
 - Older individuals;
 - Currently and formerly incarcerated individuals;
 - Homeless individuals or homeless children and youth;
 - Youth who are in or have aged out of the foster care system;
 - Individuals who are English Language Learners, have low levels of literacy, and/or those facing substantial cultural barriers;
 - Eligible migrant and seasonal farmworkers;

- Single parents (including single pregnant women);
- Long-term unemployed individuals;
- Individuals within two years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act; or
- Other groups as the Governor determines to have barriers to employment.

For purposes of the CFA, Veterans, Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) recipients are also considered individuals with a barrier to employment.

- 10) Leveraged Funding:** A financial commitment (cash or in-kind) used by the Applicant toward the costs of a project available from source(s) other than the granting organization or the CFA application process. Leveraging can be achieved by a commitment from the Applicant or through various partnerships.
- 11) Local Workforce Development Boards (LWDBs):** A board, established in each local area of NYS and certified by the Governor, made up of members from business; workforce; entities administering education and training activities; representatives of governmental, economic, and community development entities; and other individuals or representatives the chief elected official in the local area deems appropriate, tasked with creating a local plan, analyzing local labor market information and workforce development activities, engaging local business to develop linkages, developing career pathways, establishing best practices, and ensuring the appropriate use and management of funds in the local area.
- 12) Long-Term Unemployed:** Individuals, who at the time the appropriate training begins, have been unemployed for 20 weeks or more.
- 13) One-on-One Training:** A training provided in-house that consists of only one trainee and one trainer.
- 14) Occupational Skills Training:** Instruction conducted in an institutional or worksite setting designed to provide individuals with the skills required to perform a specific job or group of jobs needed by a business.
- 15) Priority Populations:** Individuals who meet the WIOA definition of Individual with a Barrier to Employment. Please refer to the Individual with a Barrier to Employment definition in [Section VII](#) and the [DPP Attachment](#).
- 16) Regional Economic Development Councils (REDCs):** Established by Governor Cuomo in 2011, the councils are tasked with developing long-term strategic plans for economic growth in each region and are public-private partnerships made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations. For more information, please visit the website at <http://regionalcouncils.ny.gov/>.
- 17) Stand Alone Ineligible Training:** Training is considered “stand alone” when it is not part of a larger occupational skills training. This type of training is not allowable under the CFA. Examples of stand-alone training include:
- Microsoft Office;
 - Basic safety training;

- Sexual harassment training;
- State or Federally mandated training (OSHA); or
- HR training.

18) Training Provider: An entity that provides a training program with one or more courses or classes, or a structured regimen that leads to a credential, secondary school diploma or its equivalent, employment, or measurable skills gain toward such a credential or employment.

19) Underemployed: Underemployed individuals, as defined by WIOA, may include (1) individuals employed less than full-time who are seeking full-time employment; (2) individuals who are employed in a position that is inadequate with respect to their skills and training; (3) individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); and (4) individuals who are employed, but whose current job's earnings are not sufficient compared to their previous job's earnings from their previous employment, per State and/or local policy.

20) Workforce Innovation and Opportunity Act (WIOA): WIOA was signed into law in July 2014, taking effect in July 2015, and replaced the Workforce Investment Act (WIA). WIOA is intended to help job seekers and workers access employment, education, training, and support services to succeed in the labor market, and match businesses with the skilled workers they need to compete in the global economy. For more information, please visit the website at https://www.doleta.gov/WIOA/eta_default.cfm.

21) WIOA Regional Workforce Plans: Regional workforce plans are created by each LWDB, recognizing workforce as an integral part of economic development. Plans are intended to identify and leverage assets of the Career Center System, as well as support the REDC strategic planning and the role of NYS Workforce Investment Board (SWIB) in addressing workforce priorities. For more information, please visit the website at <https://www.labor.ny.gov/workforcenypartners/lwda/regional-plans.shtm>.

VIII. Attachments and Appendices by CFA Portal Question Number

Applicants must acknowledge that they have reviewed the informational attachments and upload the required attachments in the CFA portal.

CFA Portal Question	Acronym	Document Title	Required for submission?
Q_9368	WPA	Work Plan Attachment	Yes, PDF format
Q_9364	DBA	Detailed Budget Attachment	Yes, Excel format
Q_9365	KC	Key Contacts	Yes, Excel format
Q_9315	ACBC	Application for Competitively Bid Contract	Yes, PDF with original signatures
Q_9299	VRAQ	Vendor Responsibility – Applicant Questionnaire	Yes, PDF with original signatures
Q_9317	EO	Executive Order (EO) 177 Certifications	Yes, PDF with original signatures
Q_9363	NHT RFA	New Hire Training Request for Application	No
	GGPR	Appendix - Grants Gateway Prequalification Requirement	No
	PIR	Appendix – Priority Industries by Region	No
	DPP	Appendix – Determining Priority Populations	No
	SCNYS	Appendix –Standard Clauses for all NYS Contracts	No
	CTC	Appendix - Combined Terms and Conditions	No
	GISBA	Appendix - General Information for Successful Bidders/Applicants	No
	MC	Appendix - Master Contract	No
	WIOA	Appendix - WIOA References	No
	MWBE	Appendix - Minority and Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) Requirements and Procedures	No
Q_9366	MWBE-1	MWBE and EEO Policy Statement	Yes, PDF with original signatures
Q_9367	MWBE-2	EEO 100 – EEO Staffing Plan	Yes, PDF with original signatures
Q_9363	MWBE-3	Appendix - EEO 101 – Workforce Utilization Report	No, required quarterly AFTER Contract Award

The three NYSDOL CFA WDI programs are: Existing Employee Training (EET); New Hire Training (NHT); and Unemployed/Underemployed Worker Training (UWT).

Note: This workforce product is partially funded by a grant awarded by the USDOL's Employment and Training Administration (ETA). The product was created by NYSDOL and does not necessarily reflect the official position of the USDOL. Neither USDOL nor NYSDOL make any guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership.

REQUEST FOR APPLICATIONS

Consolidated Funding Applications for Workforce Development Initiatives

Unemployed/Underemployed Worker Training (CFA WDI - UWT)

Issued on

May 8, 2019

[Amended July 11, 2019 and October 29, 2019]

New York State Department of Labor

Division of Employment and Workforce Solutions

Harriman Office Campus

Building 12, Room 440

Albany NY, 12240

Submission Deadline:

Ongoing

The New York State Department of Labor is an Equal Opportunity Employer. Auxiliary aids and services are available upon request to individuals with disabilities.

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I. Funding Opportunity Description

A. Purpose

The purpose of this Consolidated Funding Application (CFA) for Workforce Development Initiatives (CFA WDI) Unemployed/Underemployed Worker Training (UWT) Program Request for Applications (RFA) is to secure the services of eligible organizations that can assist the New York State Department of Labor (NYSDOL) by providing occupational skills training commensurate with Regional Economic Development Council (REDC) priorities to unemployed/underemployed individuals to qualify them for full-time or part-time employment or if currently employed, a higher level of employment.

Additional points in scoring will be given to programs that train unemployed/underemployed individuals in priority populations, which include but are not limited to: veterans, individuals with disabilities, currently or formerly incarcerated individuals, long-term unemployed, and Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance Program (SNAP) recipients. The complete list of priority populations under this program is presented in the Determining Priority Populations ([DPP](#)) attachment of this RFA.

B. Background

Building on the eight-year success of the CFA for economic development, Governor Cuomo established this new CFA WDI for workforce development initiatives to support strategic regional efforts that meet businesses' short-term workforce needs, improve regional talent pipelines, expand apprenticeships, and address the long-term needs of expanding industries. This new investment strategy focuses on emerging fields such as clean energy, health technology, and computer science, that have a growing demand for jobs. Funding available under this strategy also seeks to support efforts to improve the economic security of women, youth, and other populations that face significant barriers to career advancement.

As part of this comprehensive workforce development initiative, NYSDOL is offering three parallel funding opportunity programs through the CFA portal; UWT, Existing Employee Training (EET), and New Hire Training (NHT). Applicants may apply for one or more funding opportunity programs as part of this comprehensive approach. Applicants should apply for all CFA WDI program(s) of interest via one submission. In doing so, Applicants will only have to answer the CFA portal's basic questions, such as contact information and project location, once for all applications.

Regional Economic Development Councils

The REDC initiative is a transformative approach to New York State (NYS) investment and economic development. In 2011, Governor Cuomo established 10 Regional Councils to develop long-term strategic plans for economic growth in their regions. The Councils are public-private partnerships made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations.

The 10 regions are based on existing Empire State Development (ESD) and NYSDOL regional boundaries, which allows for maximum efficiency and the ability to capitalize on existing programs, synergies and relationships. Each REDC considers its region's individual strengths and builds upon existing assets which make them unique in order to develop regional strategies and projects that demonstrate the greatest potential for job creation and economic opportunity.

The REDC initiative uses the CFA as the primary mechanism to fund projects that align with regional and NYS priorities.

II. Award Information

A. Funding

Under this RFA, up to \$9 million (of which \$3 million is federal Workforce Innovation and Opportunity Act (WIOA) funding and \$6 million is NYS reemployment services funding) is being made available to provide occupational skills training commensurate with REDC priorities to unemployed/underemployed workers to qualify them for full time or part-time employment or a higher level of employment. Additional funding may be made available at a later date, depending on program need and the continued availability of funding. Any potential amendments to this RFA, including additional funding being made available, will be posted on NYSDOL's website and in the NYS Contract Reporter. Applications will be accepted and reviewed on an ongoing basis at any time while this funding opportunity is available. Unsuccessful Applicants have the option to modify their application and re-submit, if funding and time remain.

UWT awards may not exceed \$200,000 per Applicant. Applications that request more than \$200,000 will be reviewed and scored by NYSDOL. If the application is awardable, NYSDOL will proportionately reduce the project funding at the time of award to fit within the maximum funding amount. Applications unable to remain viable with the reduced funding will not proceed to contract execution. Therefore, it is highly recommended that Applicants keep the cost and scope of applications within the maximum award amount.

Applicants must draft their requests for NYSDOL funding as stand-alone training programs. The application must not be based in whole or in part on the assumption that the Applicant will receive complementary funding from other CFA or CFA WDI programs or agencies.

The amount of funding requested of NYSDOL must be calculated based on the number of unemployed/underemployed workers to be trained. There is no minimum award amount per trainee under the UWT Program.

If the Applicant reduces the number of individuals to be trained at any time prior to or after an award is issued, the requested level of funding will be proportionately reduced by NYSDOL.

All awards are subject to funding availability.

B. Use of Funds

The UWT Program is intended to fund occupational skills training commensurate with REDC priorities to unemployed/underemployed workers to qualify them for full-time or part-time employment, or a higher level of employment. Funded training will focus on assisting trainees in completing the occupational skills training course(s), attaining credentials (if applicable), and entering and retaining employment. As part of the occupational skills training course, the UWT Program will fund career development services, which teach job search and attainment skills; career awareness, exploration, and enhancement skills; and work readiness, employability, and job retention skills. These additional services may be part of the occupational skills training course(s) but these cannot be stand-alone course(s). Program services are

further described in Section III.D. The full definition of career development services is found in Section VII of this RFA.

Funds may be used to enlist the services of a training provider to deliver occupational skills training to unemployed or underemployed workers. Tuition and other fees may not be charged to the unemployed or underemployed workers served under this UWT funding opportunity. Trainees cannot contribute to the cost of the training(s).

For those Applicants also applying for other NYSDOL CFA WDI funding opportunities in addition to UWT funds, please note that funds cannot be combined for use on the same trainees. Each group of trainees must remain separate and distinct and be trained solely under one NYSDOL CFA WDI program.

Trainings may take place outside of NYS; however, travel and salary costs must be paid by the Applicant using non-CFA funds. The Applicant must also provide adequate justification for any training that takes place outside of NYS. Training can also be a distance learning course but the trainee must be a NYS resident.

Please note, while one-on-one training cannot be paid for through this RFA, there is no minimum number of trainees required and the cost will be reimbursed based on individual trainee attendance; tuition rate, if applicable; and other allowable itemized budget costs. For example, a single trainee cannot be trained by an in-house trainer as the sole trainee, but UWT funding can pay for the tuition costs of a single trainee attending a class at a community college with other individuals who are not subject to UWT funding. This includes occupational skills training provided by outside vendors or sub-contractors wherein the cost will be reimbursed based on a per trainee tuition cost.

Applicants that do not have their own training programs are encouraged to enter into contracts with institutions of higher education, such as community colleges, or other eligible training providers to facilitate the training of multiple individuals in high-demand occupations. NYSDOL encourages applicants to utilize training providers on the Eligible Training Providers List (ETPL), available at <https://applications.labor.ny.gov/ETPL/>, but this is not a requirement. In addition, NYSDOL will assist any Applicant seeking to register a proposed training program on the ETPL. For assistance, please email ETP@labor.ny.gov.

All proposed expenditures must be reasonable, necessary and clearly related to the purposes and activities of the proposed training program as described in the Program Design Section (V.B.2.) of this RFA. NYSDOL reserves the right to ask for justification of proposed expenditures.

1. Allowable Costs under the UWT program include the following:

- The costs of providing occupational skills training course(s) calculated as the tuition rate of each course multiplied by the number of prospective trainees in each course. If an Applicant does not have a published tuition rate, the Applicant must create a tuition rate. Additional information on what costs may be included in a tuition rate can be found in the Tuition Rate (TR) attachment;
- Credentialing exam fees;
- Textbooks or training materials directly associated with the training;
- Software required to deliver the program of training;
- Distance learning fees (i.e., the fee for the training slot and software required to deliver the training program); or

- Supportive services for trainees.

2. Allowable Costs under Supportive Services

This RFA intends to fund supportive services for unemployed/underemployed workers to help remove the barriers they face in successfully completing occupational skills training; achieving credential(s), if applicable; and attaining full-time or part-time employment or a higher level of employment.

Supportive services that can be funded through this UWT RFA include:

- **Miscellaneous Participant Expenses:** Expenses such as child and dependent care, housing, and trainee transportation that are directly attributable to trainees that are funded by this contract and not funded by a third party on a referral basis;
- **Incentives:** Encouragement for participants that meet benchmarks while participating in the program; and
- **Stipends:** Monetary assistance for continued participation in the occupational skills training program.

If supportive services costs are budgeted, the Applicant must provide a full description of the strategies that will be used to offer supportive services and ensure trainees are able to remain in the occupational skills training. Examples of supportive services strategies are detailed in [Section III.D.](#)

3. Restrictions on Types of Trainings

UWT funding will only pay for the eligible costs identified in the Use of Funds Section ([II.B.](#)) of this RFA. The following types of trainings do not constitute occupational skills training(s) for this RFA and are not allowed:

- One-on-one training;
- Human Resources training; Basic Safety training; Sexual Harassment training; Diversity training; or Orientation training (the provision of these types of training is a normal cost of doing business);
- Stand-alone remedial training (including “soft skills”, such as communication, team development, conflict resolution);
- Training required as part of a federal, NYS or local government mandate (i.e., OSHA);
- Stand-alone Microsoft Office applications (i.e., Word, Excel, PowerPoint, etc.) and other basic office software applications (i.e., QuickBooks, Adobe, etc.). Note: this refers to stand-alone courses in individual applications; it does not refer to larger certifications such as Microsoft Office Specialist;
- English as a Second Language (ESL) training (as a standalone course); and
- **Any other trainings deemed inappropriate by NYSDOL**, such as training that does not result in a transferable skill, activities determined to be business consulting rather than training (i.e., coaching, reinforcement, etc.) and any other training(s) that do not meet the intent of the RFA.

If an Applicant is unsure about restricted trainings, it should consider asking specific questions before the Questions Deadline identified in [Section IV.A.](#) of this RFA and listed in the RFA Timetable ([Section IV.F.](#)).

4. Restrictions on the Use of Funds

UWT funding will only pay for the costs directly related to providing training. It will not pay for any of the following items:

- Training of undocumented workers;
- Hardware that may be required to access online or distance learning instruction;
- The acquisition, construction, or renovation of buildings or other real estate;
- The purchase of any equipment;
- The purchase of operational software not directly associated with the training (the determination of being directly associated with the training is at NYSDOL's discretion);
- Transportation beyond 550 miles, lodging, and meal costs for relocating in-house or subcontracted trainers for the provision of the proposed training program;
- Advertising (except for recruitment efforts);
- Entertainment;
- Interest costs incurred by provider agencies;
- Costs of organized fund raising;
- Conferences, seminars, or payment of fees associated with attendance at seminars, conferences, or meetings of professional organizations;
- Start-up costs, curriculum development, and assessment costs on the part of the Applicant; or
- Any other costs deemed inappropriate by NYSDOL and that do not meet the intent of the RFA.

C. Leveraged Funding

Although leveraged funds from the Applicant are not required, additional points will be awarded during the scoring process based on the percentage of leveraged funds being used.

If costs for the proposed training program are shared with other funding sources, the application must identify the leveraged resources (both cash match and in-kind resources) used to allocate costs among funding sources. Any leveraged funding must be indicated in the CFA portal budget table described in Section V.C.4. of this RFA.

D. Contracts

The contract start date for all contracts resulting from this solicitation may be no earlier than the date of the award letter issued by NYSDOL and no later than six months after the date of the award letter. Any training that begins or is paid for prior to the contract start date will fall outside the contract period and be ineligible for reimbursement. Additionally, any training provided after the contract end date will also fall outside the contract period and will be ineligible for reimbursement.

After NYSDOL issues an award letter, the award must go through a contract development and contract execution process and ends with the final execution of the contract. Therefore, if an Applicant chooses a contract start date that begins prior to contract execution, the Applicant will be operating at risk for any activities performed prior to the date of final execution of the contract.

Contracts resulting from this solicitation will be awarded for a period of up to one year. Applicants must include only the training opportunities that can be reasonably accomplished within a one-year time period. Under extenuating circumstances, limited no-cost contract extensions may be approved at NYSDOL's discretion. All activities funded by the contract must end on or before the end date of the contract and any activities that occur after the contract end date are not eligible for reimbursement under the contract.

Once a contract is developed and formally executed, the successful Applicant will be considered a NYSDOL Contractor. Funds will be released to the Contractor on a cost reimbursable basis. This means that a Contractor must first pay the expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on the prescribed forms before payment is made. For cost reimbursements to be approved, certain records must be kept and specific documents submitted at intervals specified by NYSDOL. Additional details on reimbursements and payments are outlined in the Payment Section (VI.B) of this RFA.

Please note that NYSDOL must adhere to New York State Prompt Contracting Law timeframes for executing contracts awarded to not-for-profits entities. This Law provides for interest payments when contract payments are late due to untimely processing of contracts. However, if there are delays in the contract process on the part of the contractor, Suspension of Prompt Contracting timeframe letters may be issued to render the contractor ineligible for interest for the number of days of delay.

In addition, the United States Department of Labor (USDOL) or NYSDOL may conduct an independent evaluation of the outcomes and benefits of UWT funding. By accepting an UWT Program award under this RFA, the Applicant agrees to participate in any such evaluation.

E. Contracting Process

In keeping with the Governor's promise to reform NYS' grant contracting process, NYS has established a standardized statewide grant contracting system called the Grants Gateway, which is designed to facilitate prompt contracting.

All Applicants are required to register in this system in order to enter into a contract with NYS. All Applicants must log-in to the Grants Gateway website at <https://grantsmanagement.ny.gov> and follow the instructions to complete the registration. **The registration form must be signed, notarized and mailed to Gateway Administrators. Plan accordingly to avoid potential delays in applying for upcoming grant opportunities.**

Not-for-profit (NFP) organizations must take the additional step of prequalifying by completing a basic profile and storing organizational documents. **Both registration and prequalification must be completed by NFP organizations prior to submitting an application.** Failure to do so will mean that their applications will not be reviewed. NFP organizations will be able to submit their responses online, and, once reviewed and approved by a NYS agency prequalification specialist, the NFP organization will be able to submit an application. All information is stored in a virtual, secured vault. NFP organizations must keep their information current throughout a three-year period, including uploading annual documents (i.e., 990, etc.).

For additional information on registration and prequalification, please log on to the Grants Gateway website at <https://grantsmanagement.ny.gov> or <https://grantsmanagement.ny.gov/resources-grant-applicants>. For additional technical assistance with the Grants Gateway website, please note:

- Hours of Operation: Monday through Friday, 8:00 A.M. to 8:00 P.M. NYS Time;
- Phone Number: 1-800-820-1890; and
- Email: grantsgateway@its.ny.gov.

F. NYSDOL's Responsibilities

NYSDOL will oversee implementation of the contract(s) resulting from this RFA, including regular monitoring of implementation and performance of the contract(s).

Funding for the activities outlined in this RFA will come, in part, from funds available under WIOA and is subject to NYS and Federal legislative appropriation. NYSDOL staff will ensure accurate and timely reporting of program outcomes as well as Federal evaluation documentation as required by the USDOL.

G. Applicant Requirements

By submission of an application in response to this solicitation, Applicants agree with the Minimum Threshold Requirements Section (V.B.1) of this RFA and all of the terms and conditions set forth in the attachments to this RFA.

Applicants must comply with the Combined Terms and Conditions (CTC), which will be incorporated into the Master Contract (MC) of successful Applicants.

H. Participation Requirements

Please refer to Section VIII (Attachments and Appendices) for further information on these participation requirements.

1. Business Participation Opportunities for MWBEs

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

a. Contract Goals

For purposes of this solicitation, NYSDOL hereby establishes an overall goal of **30%** for MWBE participation, **15%** for NYS certified minority-owned business enterprises ("MBE") participation and **15%** for NYS certified women-owned business enterprises ("WBE") participation (based on the current availability of MBEs and WBEs). A Contractor awarded funds from this RFA must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the contract. To that end, by submitting a response to this RFA, the Applicant agrees that NYSDOL may withhold payment pursuant to any contract awarded as a result of this RFA pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how NYSDOL will evaluate a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

The Applicant 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% of the total value of the contract.

In accordance with 5 NYCRR §142.13, the Contractor 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 NYSDOL 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 an application, the Applicant agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the NYS Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Applicant may arrange to provide such evidence via a non-electronic method by contacting:

NYSDOL
Purchase and Contracts, MWBE Administrator
State Campus
Building 12, Room 454
Albany, NY 12240
518-474-2678

b. MWBE Utilization Plan (MWBE 100, MWBE-4)

An Applicant will be required to submit the MWBE Utilization Plan with its application as evidence of compliance with the foregoing. 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 NYSDOL for review and approval.

NYSDOL will review the submitted MWBE Utilization Plan and advise the Applicant of acceptance or issue a notice of deficiency within 30 days of receipt.

If a notice of deficiency is issued, the Applicant will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to NYSDOL, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by NYSDOL to be inadequate, NYSDOL shall notify the Applicant and direct the Applicant 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 application.

NYSDOL may disqualify an Applicant as being non-responsive under the following circumstances:

- If an Applicant fails to submit a MWBE Utilization Plan (MWBE 100, MWBE-4);
- If an Applicant fails to submit a written remedy to a notice of deficiency;
- If an Applicant fails to submit a MWBE 101, Request for Waiver (MWBE 101, MWBE-5); and/or
- If NYSDOL determines that the Applicant has failed to document good faith efforts.

The Contractor is required to make good faith attempts to utilize 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 subsequent to contract award may be made at any time during the term of the contract to NYSDOL, but must be made prior to the submission of a request for final payment on the contract.

The Contractor will be required to submit a MWBE Quarterly Compliance Report (MWBE-6) to NYSDOL, 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.

2. Equal Employment Opportunity Staffing Plan

An Applicant will be required to submit EEO 100 (EEO 100, MWBE-2) with its application as evidence of compliance with the foregoing.

By submission of an application in response to this solicitation, the Applicant agrees with all of the terms and conditions of the Master Contract (MC) and the Combined Terms and Conditions (CTC), specifically Section VI.J. Contractors are 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 contractor, 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 NYS.

The Applicant will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (MWBE-1) to NYSDOL with its application.

If awarded a contract, Applicants shall submit a Workforce Utilization Report (EEO 101, MWBE-3) and shall require each of its subcontractors to submit a Workforce Utilization Report, in such format as shall be required by NYSDOL on a quarterly basis during the term of the contract.

Pursuant to Executive Order #162, Contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the EEO 101 (MWBE-3) form on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other NYS 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 NYS 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.

3. Participation Opportunities for NYS SDVOBs

Article 17-B of the NYS Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into NYS’ economy. NYSDOL recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of NYSDOL contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in NYS, Applicants are expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

a. Contract Goals

NYSDOL hereby establishes an overall goal of **6%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Applicant/Contractor should reference the directory of NYS Certified SDVOBs found at: <https://online.ogs.ny.gov/SDVOB/search>. Questions regarding compliance with SDVOB participation goals should be directed to NYSDOL, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240; Email: Labor.sm.SDVOBAdmin@labor.ny.gov; Phone: 518-474-2678. Additionally, following contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the contract.

Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the contract (see [Section II.G.3.d.](#) below).

b. SDVOB Utilization Plan (SDVOB 100, [SDVOB-1](#))

In accordance with 9 NYCRR § 252.2(i), Applicants are required to submit a completed SDVOB Utilization Plan with their applications.

The Utilization Plan shall list the SDVOBs the Applicant intends to use to perform the contract, a description of the work the Applicant intends the SDVOB to perform to meet the goals on the contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of contract work the SDVOB will perform. By signing the Utilization Plan, the Applicant acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future applications, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the contract award and during the term of the contract must be reported on a revised SDVOB Utilization Plan and submitted to NYSDOL.

NYSDOL will review the submitted SDVOB Utilization Plan and advise the Applicant of NYSDOL’s acceptance or issue a notice of deficiency within 20 days of receipt.

If a notice of deficiency is issued, the contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to NYSDOL a written remedy in response to the

notice of deficiency. If the written remedy that is submitted is not timely or is found by NYSDOL to be inadequate, NYSDOL shall notify the contractor and direct the contractor to submit, within five business days of notification by NYSDOL, a request for a partial or total waiver of SDVOB participation goals (SDVOB 200, SDVOB-3). Failure to file the waiver form in a timely manner may be grounds for disqualification of the application.

NYSDOL may disqualify an Applicant's application as being non-responsive under the following circumstances:

- If an Applicant fails to submit a SDVOB Utilization Plan (SDVOB 100, SDVOB-1);
- If an Applicant fails to submit a written remedy to a notice of deficiency;
- If an Applicant fails to submit a request for waiver (SDVOB 200, SDVOB-3); and/or
- If NYSDOL determines that the Applicant failed to document good faith efforts.

If awarded a contract, contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the contract pursuant to the prescribed SDVOB contract goals set forth above.

Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the contract. Upon the occurrence of such a material breach, NYSDOL shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

c. Request for Waiver (SDVOB 200, SDVOB-3)

Prior to submission of a request for a partial or total waiver, Applicants may speak to the SDVOB Administrator at NYSDOL for guidance.

In accordance with 9 NYCRR § 252.2(m), an Applicant that is able to document good faith efforts to meet the goal requirements, as set forth in Section II(G)(3)(d) below, may submit a request for a partial or total waiver on Form SDVOB 200 (SDVOB-3), accompanied by supporting documentation. An Applicant may submit the request for waiver at the same time it submits its SDVOB Utilization Plan (SDVOB-1). If a request for waiver is submitted with the SDVOB Utilization Plan (SDVOB-1) and is not accepted by NYSDOL at that time, the provisions of Sections II(G)(3)(c-e) of this RFA will apply. If the documentation included with the Applicant's waiver request is complete, NYSDOL shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

The contractor is required to make good faith attempts to utilize the SDVOBs identified within its SDVOB Utilization Plan (SDVOB-1), during the performance of the contract. Requests for a partial or total waiver of established goal requirements subsequent to contract award may be made at any time during the term of the contract to NYSDOL, but must be made prior to the submission of a request for final payment on the contract.

If NYSDOL, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101, SDVOB-2) determines that the contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regard to such non-compliance, NYSDOL may issue a notice of deficiency to the contractor. The contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to NYSDOL, Purchase and Contracts, SDVOB Administrator, State Campus, Building 12, Room 454, Albany, NY 12240. Email: labor.sm.SDVOBAdmin@labor.ny.gov.

d. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), contractors must document their good faith efforts toward utilizing SDVOBs on the contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- Copies of solicitations to SDVOBs and any responses thereto.
- Explanation of the specific reasons each SDVOB that responded to contractors' solicitation was not selected.
- Dates of any pre-application, pre-award or other meetings attended by contractor, if any, scheduled by NYSDOL with certified SDVOBs whom NYSDOL determined were capable of fulfilling the SDVOB goals set in the contract.
- Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- Other information deemed relevant to the waiver request.

e. Monthly SDVOB Contractor Compliance Report (SDVOB 101, [SDVOB-2](#))

In accordance with 9 NYCRR § 252.2(q), the contractor is required to report Monthly SDVOB Contractor Compliance Report to NYSDOL during the term of the contract for the preceding month's activity, documenting progress made towards achieving the contract SDVOB goals. This information must be submitted using form SDVOB 101 ([SDVOB-2](#)) available on NYSDOL's website and should be completed by the contractor and submitted to NYSDOL, by the 10th day of each month during the term of the contract, for the preceding month's activity to: NYSDOL, SDVOB Administrator, Purchase and Contracts, State Campus, Building 12, Room 454, Albany, NY 12240. Email: Labor.sm.SDVOBAdmin@labor.ny.gov; Phone: 518-474-2678.

f. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the contract, shall be found to have breached the contract and contractor shall pay damages as set forth therein.

III. Eligibility Information

A. Applicant Eligibility

Eligible Applicants for UWT funding include for-profit entities, including corporations, LLCs, LLPs, etc.; NFP entities; municipalities; and educational institutions, including colleges and universities which:

- Have two (2) or more employees or the equivalent of two (2) full-time employees. Principals of corporations and owners of businesses such as sole proprietors or partners, are not considered to be employees for this eligibility requirement. An Applicant is not eligible to apply if it has no employees or if the workers are independent contractors, subcontractors or contract employees.

However, if an Applicant leases its employees for payroll and tax reporting purposes, and has authority over the hiring, firing and scheduling of workers, it is eligible for funding consideration;

- Are in good standing with regard to the laws, rules, and regulations for: Unemployment Insurance (UI), Worker Adjustment and Retraining Notification Act (WARN), Public Work, Labor Standards, Safety and Health, NYS Department of State Division of Corporations, Workers Compensation Insurance, and Disability Insurance; and
- Are, or have partnerships with, business(es) that commit to interview and consider trainees for employment.

Local Workforce Development Boards (LWDBs) have the authority to enter into contracts with institutions of higher education, such as community colleges, or other eligible training providers, to facilitate the training. LWDBs may not deliver training directly with these WIOA funds. Unincorporated LWDBs applying for funds pursuant to this RFA, must designate the local area's WIOA grant recipient or fiscal agent as the official Applicant for any proposal under this RFA.

UWT funds are separate from any other workforce development funding an Applicant may have received from NYSDOL. Applicants with existing or pending contracts with NYSDOL remain eligible to apply for funding under this UWT RFA, but the application must not propose services to the same individuals as the existing or pending NYSDOL contract(s). If existing contracts are for services identical to those proposed under this UWT RFA, applicants must serve new individuals under the proposed training program and must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract for participant services before an award is made for CFA WDI funding. In addition, the payments requested from awarded contracts under this RFA cannot duplicate reimbursement that is requested or received from other sources of funding.

Consultants, trade organizations and other third-party entities are not eligible to apply for UWT Program funds on behalf of other organizations.

The use of a grant writer is acceptable if the Applicant, and not the grant writer, commits to implementing the proposed training program, if the application is successful.

Applicants must attest to the Minimum Threshold Requirements as outlined in the Evaluation Criteria Section (V.B.) of this RFA.

An Applicant and its components are only eligible for one award under this RFA, not one per location, and are subject as a whole to the funding limitations described in this RFA. Separate operations or locations of an eligible Applicant may apply separately if they have different Federal Employer Identification Numbers (FEINs). However, NYSDOL will also have to confirm that all such branches, locations, and companies are not part of a greater whole. The Research Foundations of the State University of New York (SUNY) and the City University of New York (CUNY), if they are submitting applications on behalf of more than one college, are exempt from this requirement.

B. Trainee Eligibility

Trainees must be unemployed or underemployed workers residing in NYS that are seeking occupational skills training in order to qualify for full-time or part-time employment or to obtain higher level employment. For the full definition of underemployed, please see Section VII.

In particular, this UWT RFA will provide additional points in scoring to applications indicating a plan to train unemployed or underemployed individuals in priority populations. Priority populations are defined, in Section VII, as individuals who meet the WIOA definition of individuals with barriers to employment and include: Displaced homemakers; Low income individuals; Native Americans; Individuals with disabilities (including youth with disabilities and recovering drug addicts); Older individuals; Individuals currently and formerly involved in the justice system; Homeless individuals or homeless youth; Youth who are in or have aged out of the foster care system; Individuals who are English language learners; Individuals who have low levels of literacy; Migrant and seasonal farm workers; and Single parents (including single pregnant women).

In addition, as permitted by WIOA Section 3(24) for this UWT funding opportunity, NYSDOL recognizes the following individuals as having barriers to employment: Long term unemployed workers (defined as individuals who, at the time the UWT-funded program starts, have been unemployed for 20 weeks or more); TANF and SNAP recipients; and Veterans.

Please note that this solicitation is federally funded, therefore all men born on or after January 1, 1960, who will be served under this RFA, must be registered with Selective Service.

If a male participant is between the ages of 18 and 26, he may register online at <https://www.sss.gov/Registration-Info> and provide his registration number on the Trainee Information Form. If a male participant is not registered and is 26 years of age or older, he must sign an Attestation stating that his failure to register was not willful. The Trainee Information Form and the Attestation Form will be provided to each Applicant after an award is made.

A list of those who are required by law to register with Selective Service may be found online at <https://www.sss.gov/Registration-Info/Who-Registration>.

C. Partnering with Career Centers

Career Centers in NYS offer a variety of reemployment services to unemployed and underemployed workers. These services include but are not limited to: an initial assessment; job search strategies and assistance; cover letter and resume assistance; interview skills; mock interviews; Job Zone access; referrals for eligible social services; programs for individuals involved in the justice system; immigrant worker programs; assistance to persons with disabilities; and other supports. Services such as comprehensive assessment, career guidance, job search, job matching, career counseling or supportive services may be provided when designed to help participants and to ensure long-term employment.

While a formal partnership agreement is not required, partnering with one or more of the WIOA mandated Career Center partners may complement the services provided by Applicants and enhance benefits available to trainees under this RFA. In addition, Applicants providing evidence of partnership with one or more of the mandated partners will receive extra points in scoring. Please refer to Section VII for the full list of Career Center partners.

The Career Center may refer interested and eligible unemployed or underemployed worker(s) to Applicants who receive an award under this RFA. However, Applicants are fully responsible for the identification of eligible trainees for the awarded training program.

D. Program Services

1. Occupational Skills Training and Career Development Services

Applicants will be required to describe their strategies to offer career development services, which teach job search and attainment skills; career awareness, exploration, and enhancement skills; and work readiness, employability, and job retention skills.

Applicants will also be awarded extra points for showing alignment with the WIOA regional plan and evidence of partnership with WIOA Career Center partners.

Occupational skills training and career development services are defined in [Section VII](#).

2. Supportive Services

Strategies for providing supportive services may include but are not limited to:

- Implementing individual or group mentoring strategies, which may include utilizing program graduates and business representatives in training delivery and support groups;
- Providing robust monetary and non-monetary incentives for retention, and strategies related to concrete benchmarks as trainees move through the course(s) (if providing these incentives, include detail on the benchmarks and amount to be paid per benchmark);
- Providing services such as stipends or remuneration that address the needs of prospective trainees for services such as child care, transportation, and housing (if providing these services, include detail on the services provided). Applicants may consider using the Employability Profile at JobZone - www.jobzone.ny.gov;
- Establishing a strong and meaningful referral system with partner agencies to ensure supportive services are available to trainees and follow up with agencies and trainees takes place regularly;
- Providing case management of trainees with regular contact (weekly) at the onset of training and employment (in person, phone, social media) and gradually reducing this contact as new hires are acclimated to the job; or
- Maintaining regular contact with business(es) after hires are made to assist with any difficulties that may arise during the trainee's transition to the position.

3. Business Engagement

Business engagement in the development of curriculum delivery and implementation ensures improved trainee outcomes and enhances the competitive edge for industry. This can include business representatives as guest speakers or co-facilitators of training modules or business mentors to strengthen trainee comprehension of the expectations of the workplace through one-on-one interactions. Applicants will be required to demonstrate business engagement in their occupational skills training and job placement efforts, using the Business Engagement (BE) attachment, and utilizing the Occupational Information Network (O*NET), which can be found online at <http://www.onetonline.org/>.

O*NET is an interactive application for exploring and searching occupations and their distinguishing key features. O*NET provides a universal classification of more than 900 occupations with key features required by workers, such as: tasks performed, knowledge, abilities, skills, typical education, and work experience. O*NET also provides information on wages and employment prospects of each

occupation. O*NET is developed under the sponsorship of the USDOL's Employment and Training Administration (ETA). For further information regarding O*NET, please refer to Section VII of this RFA.

Applicants must utilize O*NET OnLine to identify the O*NET codes of the positions that businesses commit to interview trainees for and enter these codes in the BE attachment. Details on finding the O*NET code of an occupation is provided in the O*NET and Job Zone Information (OJZ) attachment of this RFA.

4. Credentials

Occupational skills training may assist in the development of a career ladder which improves a trainee's skills, often providing a credential to the trainee, while also leading to a long-term career in higher skills occupations.

Credential is defined as an attestation of qualifications or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. A credential is not a certificate of completion for a course. Examples of credentials include:

- A secondary school diploma or its recognized equivalent; and
- Recognized postsecondary credentials which include Associate's and Bachelor's degrees; occupational licensures; occupational certificates, including Registered Apprenticeship and Career and Technical Education educational certificates; occupational certifications; and other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Recognized postsecondary credentials must be awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills and not the attainment of work readiness or general skills only (i.e., safety, hygiene, and computer security).

Credentials are generally achieved for skills improvements that are crucial to talent development for businesses and are often portable and transferable across multiple industries. Stackable credentials, which are part of a sequence of credentials that can be accumulated over time, build up an individual's qualifications and help the individual to move along a career ladder to potentially higher-paying jobs.

While an Applicant can apply if the proposed training program does not provide a credential, additional points will be awarded during the scoring process to those programs that help trainees achieve credential(s) given by third-party issuers or accredited institutions.

Credential is defined in Section VII of this RFA.

5. Alignment with WIOA Regional Priorities

Applicants that align their proposed occupational skills training program with the priorities outlined in WIOA Regional Workforce Plans regarding priority industries and sector strategies will be awarded additional points in scoring. Regional Plans from 2016 may be found at <https://labor.ny.gov/workforcenypartners/lwda/regional-plans.shtm>. A spreadsheet of priority industries by region from the 2016 Regional Plans is attached to this RFA (PIR Attachment).

Applicants can propose training for multiple titles within a selected industry or across industries based on the occupational skill training need of the partnering business(es). While the identification of multiple industries is allowed, Applicants must indicate a single industry to which the majority of the proposed program will serve.

6. Target Geography

UWT funding will promote availability of occupational skills training programs leading to employment of trainees in distressed communities by providing additional points during scoring to programs identified as serving counties identified in high need areas. Applicants must determine which county the proposed training program will serve. If multiple counties will be served, Applicants are asked to identify the county to which the majority of the trainees will be from. NYSDOL will make a determination if the proposed training program is offered in locations of high, moderate, or low need counties (see the full list of Counties of Need in [Section VII](#) of this RFA).

7. Reporting Requirements

The contractor must submit individual participant level data to NYSDOL. NYSDOL staff will record this data in the One-Stop Operating System (OSOS).

OSOS is NYSDOL's case management system and is used to record basic participant information, as well as to track the provision of required services. OSOS is a web-based job matching, case management, and reporting system that allows workforce professionals to effectively manage workforce development programs.

NYSDOL may require quarterly reports on program updates, progress, and success. This may include information beyond the available data in OSOS.

IV. Process for Application Submission

A. Questions Concerning this RFA

Applicants may submit questions via electronic mail to CFA@labor.ny.gov. Questions regarding the RFA will be accepted until funds are exhausted. No telephone inquiries will be accepted. All inquiries should include the following reference in the Subject line: "CFA WDI UWT Question". Answers to all questions will be posted on the NYSDOL website at (<http://labor.ny.gov/businessservices/funding.shtml>) on an ongoing basis.

The NYSDOL CFA WDI Team cannot see applications in the CFA portal until applicants successfully complete the threshold questions and are in progress. The NYSDOL CFA Team can only answer program related questions. Applicants should direct any technical questions about the CFA portal to cfa-tech@ny.gov.

B. Assistance in Completing this RFA

Eligible Applicants may speak with a NYS Career Center Business Services Representative (BSR) for technical assistance or support during the development of the proposed training program. BSRs contact information may be found at the following link:

<https://www.labor.ny.gov/formsdocs/factsheets/pdfs/p469.pdf>.

C. Application Due Date

The completed application with all required attachments must be submitted through the CFA portal, <https://apps.cio.ny.gov/apps/cfa/>, on an ongoing basis until funds are exhausted. NYSDOL takes no responsibility for any third-party error in the delivery of applications (i.e., public computer access, internet service provider, etc.).

D. Application Submission Instructions and Format

All fields in the application must be completed in the CFA portal, available online at <https://apps.cio.ny.gov/apps/cfa/>. The CFA portal institutionalized the role of the REDCs in identifying priorities for NYS resources. The CFA portal is a modern and easy-to-use application, providing resources to help Applicants, and includes the CFA application step-by-step guide with screenshots, CFA application questions and answers, recorded webinars, and available in-person CFA workshops (<https://regionalcouncils.ny.gov/> - CFA Application Guide).

Applications must be marked as “submitted” in the CFA portal to be reviewed. No faxed or hard copy applications will be accepted. If the Applicant does not have the technological capability to access, complete and submit the CFA, it may do so at its nearest Career Center (please find the nearest location on the NYSDOL’s website at: <http://labor.ny.gov/career-center-locator/>).

Once the application is submitted, there is no ability to resubmit or edit a threshold question. The Applicant will need to register with a new token and start a brand-new application if a threshold question was answered incorrectly.

Applicants should apply for all CFA WDI program(s) of interest via one submission. In doing so, answers to the CFA portal’s basic questions, such as contact information and project location, will only be required to be entered once.

To ensure that questions specific to the program(s) to which the Applicant is applying are answered, the Applicant should log into the application in the CFA portal and click the word “Programs” located toward the left of the screen; just below the Application number. From this screen, the Applicant can add or remove programs and their associated questions.

All required documents must be completed and uploaded as attachments in the CFA portal. Please note, that uploading blank, incomplete or unsigned attachments to the application may render the Applicant ineligible for funding consideration.

Required application attachments and the requested submission format are listed below:

- 1) Business Engagement (BE) – Excel format;
- 2) Detailed Budget Attachment (DBA) – Excel format;
- 3) Bid Worksheet (BW) – PDF format;
- 4) Key Contacts (KC) – Excel format;
- 5) Application for Competitively Bid Contract (ACBC) – Signed and in PDF format;
- 6) Vendor Responsibility - Applicant Questionnaire (VRAQ)– Signed and in PDF format;
- 7) NYS Executive Order 177 Certification (EO) – Signed and in PDF format;

- 8) MWBE and EEO Policy Statement (MWBE-1) – Signed and in PDF format;
- 9) EEO Staffing Plan (MWBE-2) – Signed and in PDF format;
- 10) MWBE Utilization Plan (MWBE-4) and/or Application for Waiver of MWBE Participation Goal (MWBE-5) – Signed and in PDF format; and
- 11) SDVOB Utilization Plan (SDVOB-1) and/or Application for Waiver of SDVOB Participation Goal (SDVOB-3) – Signed and in PDF format.

The contact information for all business(es) committing to interview and consider trainees must be included in the BE attachment.

Applicants must acknowledge that they have reviewed the informational attachments prior to the submission of the application in Standard Question 9351. Failure to answer this question will prohibit the Applicant from proceeding with submission of the application.

- 1) Appendix - Unemployed/Underemployed Worker Training Request for Application
- 2) Appendix - Tuition Rate
- 3) Appendix - Grants Gateway Prequalification Requirement
- 4) Appendix – O*NET and Job Zone Information
- 5) Appendix – Priority Industries by Region
- 6) Appendix – Determining Priority Populations
- 7) Appendix – WIOA Partner Contact Information
- 8) Appendix - Standard Clauses for all NYS Contracts
- 9) Appendix - Combined Terms and Conditions
- 10) Appendix - General Information for Successful Bidders/Applicants
- 11) Appendix - Master Contract
- 12) Appendix - WIOA References
- 13) Appendix - Minority and Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) Requirements and Procedures
- 14) Appendix - EEO 101 – Workforce Utilization Report
- 15) Appendix - MWBE 105 – MWBE Quarterly Compliance Report
- 16) Appendix - Service-Disabled Veteran-Owned Businesses (SDVOB) Requirements and Procedures
- 17) Appendix - SDVOB 101 – SDVOB Monthly Compliance Report

E. Grants Gateway Registration and Prequalification Status

As indicated in Section II.E. of this RFA, all interested parties must be registered in the Grants Gateway prior to application submission and all non-governmental NFP Applicants must be designated in one of the status categories listed below prior to application submission:

- 1) Document Vault Prequalified
 - Fully Prequalified

- 2) Document Vault Prequalified Open
 - If an organization proactively opens its document vault before the required documents expire, it will go to this status.
 - i. The Organization will not lose prequalification status unless an expiration date passes.
 - ii. This allows NFPs to apply for funding opportunities without losing prequalification status.
- 3) Document Vault Prequalified/In review
 - This status is only available if an organization has proactively opened its vault prior to document expiration and has submitted it with updated documents.
 - i. The organization is still considered prequalified during this status EVEN IF the expiration date passes.
- 4) Document Vault Prequalified/Open for Prequalification Specialist (PQS) Edits
 - NYSDOL is making edits and prequalification status is maintained.

Once it is determined that a non-governmental NFP Contractor is prequalified, the organization must maintain prequalification status during the contract period. The organization will be given an opportunity to submit documents and information to the Grants Gateway in order to maintain or regain prequalification status.

For more information about Grants Gateway and Prequalification, please visit the Grants Gateway website <https://grantsmanagement.ny.gov> or contact the Grants Management Team at: grantsreform@its.ny.gov. The Grants Management help desk/hotline can be reached at (518) 474-5595.

NYSDOL will consider any application not meeting the Grants Gateway registration or non-governmental NFP Application pre-qualification requirements prior to application submission to be non-responsive.

F. RFA Timetable

- RFA Release Date – May 8, 2019
- Deadline Date for Questions – Ongoing
- Deadline Date for Responses to Questions – Ongoing
- Application Due Date – Ongoing
- Projected Notification of Awards – Ongoing as received

V. Application Review and Selection

A. Application Process

Under the CFA WDI, the application process will take place in two (2) phases. During Phase One, interested Applicants will submit a general project plan to the REDC in their region, which will be reviewed by the REDC Workforce Development Committee. The REDC Workforce Development Committee will make recommendations to the REDC's Executive Committee, who will decide which applications advance to Phase Two. Additional information about the WDI process and the Phase One application is available at <https://www.ny.gov/workforcedevelopment>.

Note, during WDI Phase One, only the project plan questions will be available in the CFA portal. This does not include the Minimum Threshold Requirement, Program Design, Work Plan, and Budget questions specific to NYSDOL's RFAs. These questions will be made available during Phase Two.

Applicants that advance to Phase Two will be notified by the Office of Workforce Development and granted access to the appropriate WDI program questions to complete and submit. These Phase Two questions address the specific requirements of all RFAs for which the applicant is eligible to apply, including NYSDOL's EET, NHT and UWT programs.

For further information regarding Phases One and Two of the Workforce Development Initiative Process, refer to <https://www.ny.gov/workforce-development-initiative/workforce-development-initiative-process#project-identification>.

B. Evaluation of Phase Two Applications

A complete Phase Two application, including the DBA and all other required attachments, must be submitted via the CFA portal so that NYSDOL can conduct a full and proper evaluation. Failure to answer all questions in the application will jeopardize the Applicant's potential for funding. NYSDOL will make an initial eligibility determination on each application received. Applications deemed eligible will be scored based on further review and evaluation. Application scores will consist of 65% for Program Design, 15% for Work Plan, and 20% for Program Cost. Scoring of technical merit will award points based on a "criteria met" or "criteria not met" scale. NYSDOL reserves the right to make no awards.

Applications must first meet all Minimum Threshold Requirements, Section V.C.1. of this RFA. Upon receipt of all required application documents and confirmation of Minimum Threshold Requirement attainment, UWT applications will be evaluated by NYSDOL staff. NYSDOL staff score applications based on the Program Design, Work Plan, and Program Cost described in the Evaluation Criteria Section (V.C.) of this RFA.

Program outcomes based on past performance related to retention of employees after the completion of training, their attainment of credentials, and potential wage increases are considered in award determination.

C. Evaluation Criteria

The Evaluation Criteria has four parts: the Minimum Threshold Requirements; the Program Design; the Work Plan; and the Program Cost. The evaluation of the application will consist of a review of each part independently.

Applications deemed eligible will be scored based on further review and evaluation. Application scores will consist of 80% on Technical Merit (65% on Program Design and 15% on Work Plan) and 20% on Program Cost.

1. Minimum Threshold Requirements

Failure to attest to and document Minimum Threshold Requirements will result in an automatic rejection of the application and scoring will not proceed. No points will be awarded for Minimum Threshold Requirements. Applicants must attest to each of the following:

- 1) (Q_8745) Applicant is a for-profit entity, including a corporation, LLC or LLP; not-for-profit (NFP) entity; municipality; or a college or university;
- 2) (Q_8746) Applicant is in good standing with regard to the laws, rules, and regulations for UI, WARN, Public Work, Labor Standards, Safety and Health, NYS Department of State Division of Corporations, Workers Compensation Insurance, and Disability Insurance;
- 3) (Q_9260) Applicant has two (2) or more employees or the equivalent of two (2) full-time employees (these employees may work part-time as long as it is a permanent, year-round position whose work performance is integral to the service or product provided by the business and who is economically dependent on the business);
- 4) (Q_9261) The application was developed by the Applicant and all language therein is presented at the request of the Applicant. The use of a grant writer is acceptable, only if the Applicant and not the grant writer, commits to implementing the training listed in the application, if the application is successful;
- 5) (Q_9262) Applicant agrees to submit reports to NYSDOL on an as needed basis for the purposes of meeting federal and NYS reporting requirements and understands such reporting may include identifiable information related to both the Applicant and the Trainee;
- 6) (Q_8747) Applicant is or has partnerships with business(es) that commit to interview and consider trainees for employment;
- 7) (Q_8748) Applicant is responsible for recruiting eligible unemployed/underemployed workers as defined in the RFA;
- 8) (Q_9265) Applicant will not charge or expect any trainee served under this proposed training program to pay any tuition charges or other fees;
- 9) (Q_8749) Applicant understands that all Applicants must register in the Grants Gateway system (<https://grantsmanagement.ny.gov>) before application submission;
- 10) (Q_8750) Applicant understands that all non-governmental NFP organizations must prequalify before application submission and must be in an acceptable pre-qualification status in the Grants Gateway system (<https://grantsmanagement.ny.gov>);
- 11) (Q_8751) It is the intention of the Applicant that the workers to be trained will either seek full-time or part-time employment or a higher level of employment in NYS upon completion of the training;
- 12) (Q_9263) Applicant will comply with NYS Labor law and Federal law for the protection of workers; and
- 13) (Q_9264) If awarded, job openings that occur during the contract period will be listed with the NYSDOL Job Bank. To place a job order visit:
www.labor.ny.gov/businessservices/services/perm.shtm.

2. Program Design – 65 Points

Applicant must fully answer each part of the questions listed in the CFA portal and submit applicable attachments. Note that the CFA portal requires answers to Threshold questions; Location questions; and completion/upload of required attachments listed in [Section VIII](#) of this RFA prior to the completion of Standard questions, which NYSDOL refers to as Program Design.

Business/Industry Demand (16 points)

- 1) (Q_2950) Enter your Federal Employer Identification Number (FEIN). (0 points)
- 2) (Q_9329) Indicate the exact number of trainees who will be trained under this application. (1 point)
- 3) (Q_9352) In [the BE attachment](#), provide the following for business(es) making commitments to interview the workers under this proposed training program:
 - i. Business name and contact information;
 - ii. Occupational title(s);
 - iii. O* NET code of the occupation that the trainee will be trained for. The code must match the occupational title(s) or tasks to be performed by the trainee upon the completion of the training. For more information regarding O*NET codes, please refer to Section III.D.3. of the RFA;
 - iv. Number of available job openings at the business; and
 - v. Number of trainees the business has agreed to interview. (12 points)Please see [the OJZ attachment](#) for details on obtaining the O*NET Code of each job title.

- 4) (Q_9266) Indicate the priority industry the proposed training program will serve. (3 points)
For information regarding priority industries by region, please see [Section III.D.](#) or the [PIR attachment](#) of this RFA.

Target Geography (3 points)

- 5) (Q_9332) Indicate a single project county to which the majority of the proposed training program will serve. For more information regarding target geography, refer to [Section III.D.](#) of this RFA. (3 points)

Target Population (8 points)

- 6) (Q_9335) Indicate one or more priority population(s), if any, to be served under the proposed training program. For more information regarding priority populations, refer to the [DPP Attachment](#) in [Section VIII](#) of this RFA. (2 points)
- 7) (Q_9337) Provide the percentage of trainees who are part of a priority population (Section III.B). (49.99% or less; 50% to 79.99%; 80% to 100%). (2 points)

- 8) (Q_9342) Describe, using and citing local data sources, the characteristics, such as knowledge, abilities, education, literacy, and skill levels, language spoken, prior work experience of this application's unemployed/underemployed target population. (2 points)
- 9) (Q_9343) Indicate the outreach and recruitment strategies that will ensure participation by the targeted unemployed or underemployed workers. (2 points)

Occupational Skills Training Course(s)/Career Development (24 points)

- 10) (Q_9370) Provide a brief summary of each occupational skills training course, including:
 - i. A description of the occupational skills training curriculum and educational strategy that is tailored to the priority population, including materials to be used and the duration for each course proposed (3 points);
 - ii. Evidence of business or industry recognition of the occupational skills training curriculum with the name of the business/intermediary (2 points);
 - iii. A detailed description of the occupational skills the trainees will acquire for each occupational skills training course (3 points);
 - iv. A detailed description of how the applicant will assess the attainment of the trainees' occupational skills during the training course (2 points);
 - v. A detailed description of how the occupational skills gained during the training course are similar to the skills needed by the business(es) committed to interview trainees served under this RFA (2 points); and
 - vi. A specific description of the career development services, which teach job search and attainment skills; career awareness, exploration, and enhancement skills; and work readiness, employability, and job retention skills, that will be provided to the to the priority population targeted for the training program. (3 points)
- 11) (Q_9369) Describe how the occupational skills to be acquired by the trainees are recognized and transferable, either industry-wide or used across multiple industries? If the skills are used across multiple industries, list those industries. (2 points)
- 12) (Q_9371) Provide the name, description(s), and the authority or third-party issuer of the specific credential the trainees will receive at the conclusion of the training. For the definition of credential, see the Program Services Section (III.D.) and Section VII of this RFA. (3 points)
- 13) (Q_9373) Identify the strategies the Applicant will use to offer supportive services to ensure trainees remain in the occupational skills training. Strategies should include but are not limited to strategies as identified in Section III.B. of this RFA. (1 point)
- 14) (Q_9374) Detail the plans or current actions undertaken to create alignment of the proposed training program with the WIOA Regional Plan for the identified region as discussed in Section III.D. of this RFA. (1 point)
- 15) (Q_9375) Describe the current or planned partnership(s) with one or more of the required Career Center System Partners and how that partnership will support the proposed training program. (2 points)

Outcomes (6 points)

- 16) (Q_9378) Has the Applicant provided a similar occupational skills training program in the past?

If yes:

(Q_9379) Provide the percentage of trainees from prior Applicant-sponsored occupational skills training course(s) that attained a credential. For a definition of credential see the Program Services Section (III.D.2.) and Section VII of this RFA. (2 points)

If no:

(Q_9380) Provide the estimated percentage of trainees who will attain a credential from the occupational skills training course(s). For a definition of credential see the Program Services Section (III.D.2.) and Section VII of this RFA. (2 points)

- 17) (Q_9376) Does the Applicant's proposed training program result in a nationally accredited credential?

If yes:

(Q_9377) Provide the name of the accreditation entity. (1 point)

- 18) (Q_9381) Select the geographical area where the proposed program is offered.

(Q_9382) If the project is located in New York City: Select the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training course(s). Minimum wage (\$15.00) to \$16.50; \$16.51 to \$18.00; \$18.01 to \$19.50; \$19.51 and up.

(Q_9383) If the project is located in Long Island or Westchester County: Select the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training course(s). Minimum wage (\$12.00) to \$13.50; \$13.51 to \$15.00; \$15.01 to \$16.50; \$16.51 and up.

(Q_9384) If the project is located in the rest of New York State: Select the average hourly wage the majority (51% or more) of trainees will receive upon completion of the occupational skills training course(s). Minimum wage (\$11.10) to \$12.60; \$12.61 to \$14.10; \$14.11 to \$15.60; \$15.61 and up. (3 points)

Leveraged Funding (4 points)

- 19) In the CFA portal budget table, identify the use, source, status, and dollar amounts of leveraged funding, if any. No narrative is required for this question and NYSDOL will make the calculations for leveraged funds based on the CFA portal budget table provided by the Applicant. For more information about leveraged funding, please refer to Section II.C. in this RFA. (Leveraged percentages of 0% to 25%; 25.01% to 50%; 50.01% to 75%; 75.01% and up). (4 points)

Organizational Capacity/Experience (4 points)

- 20) (Q_9344) Identify the number of full-time equivalent (FTE) workers currently employed by the applicant business. (0 points)
- 21) (Q_9345) How many years has the Applicant offered similar occupational skills training or service? (Less than 1 year; 1 to 2 years; 3 or more years). (2 points)

22) (Q_9347) What is the Applicant's annual revenue? (0 points)

23) (Q_9349) What is the Applicant's annual revenue in relation to the total CFA funding request? (40.01% or more of total organizational revenue; 10.01% to 40% of total organizational revenue; Less than or equal to 10% of total organizational revenue). (2 points)

Existing Contracts (0 points)

24) (Q_10372) Does the Applicant have an existing contract(s) for services identical to those proposed under this UWT RFA? (0 points)

If yes:

(Q_10373) Does the Applicant understand that it must serve new individuals under the proposed training program and that it must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract(s) before a CFA WDI award is made? (0 points)

3. Work Plan – 15 points

In the Work Plan Attachment (WPA), the Applicant will define the objectives, tasks, and performance measures that will detail the proposed plan to ensure training and service activities, are as identified in the Program Design. The purpose of the work plan is to provide a road map and measurable criteria to ensure successful and timely implementation of the proposed program. As part of the work plan, Applicants can include objectives, tasks, and performance measures, including the following:

- The objectives are realistic and align with activities as proposed in the Program Design;
- The tasks as described align with the associated objective and upon completion will attain the objective (Applicant should include critical tasks to be performed for attaining the relevant objectives and performance measures);
- The performance measures, as proposed, will measure the successful completion of the task and attainment of the relevant objective; and
- The performance will evaluate project effectiveness. The performance measures must be SMART: Specific, Measurable, Achievable, Relevant and Time-oriented (who will do what, how it will be counted, how often, and when the tasks and objectives will be evaluated).

Performance measures may include, but are not limited to, the number of trainees obtaining employment after training; the number of trainees receiving career development services; the number of trainees attaining licensing/credential; trainee participation and satisfaction; the increase in trainee wages; training assessment outcomes; and trainee enrollment in advanced education.

4. Program Cost – 20 Points

An Applicant may receive up to 20 points for the program cost. All allowable costs requested from CFA and leveraged funds must be entered in the CFA portal budget table as described below. For a list of restricted use of funds, please see Restrictions on Types of Training (III.B.3.) and the Restrictions on the Use of Funds Sections (II.B.4.) of this RFA.

CFA Portal Budget Table

The CFA budget portal table has five columns:

- Use – Select “Proposed Program” (includes all proposed program costs, including career development and supportive services);
- Source – Indicate whether the cost is requested from CFA funding or is leveraged funds;
- Status – Indicate whether the funding included in the Source column is Anticipated or Secured;
- Amount – Provide the amount, in dollars, for each item from the Use column; and
- Indicate Source/Comments – Provide applicable specifics such as the source of leveraged funds and their use.

An Applicant may have additional costs of training that could be entered as leveraged resources. Additional points are given during scoring for leveraged funds as outlined in Evaluation Criteria (Section V.C.) of this RFA.

The rows in the CFA portal budget table allow the Applicant to enter the source of the cost by using drop-down options. More rows can be added to the table by clicking “Add Rows.” Applicants may also use the “Scoring Tips” link provided in the portal for assistance in completing the CFA portal budget table.

A complete and correct CFA portal budget table will help Applicants obtain the most accurate cost score.

Detailed Budget Attachment

Applicants must complete and submit the DBA with their application. The DBA requires specific detail for the costs of occupational skills training course(s), including career development services (Training Costs); the allowed non-Personnel Costs of books or training materials directly associated with the training; software required to deliver the training (distance learning fees); credentialing exam fees; the miscellaneous trainee expenses, including supportive services costs; and the incentive or stipends costs. This detail will be incorporated into the contract of successful Applicants.

Bid Worksheet

Applicants must also complete and submit the Bid Worksheet (BW) attachment with their application. The BW requires that the Applicant provide two (2) comparison bids on the tuition rate from training providers other than the selected training provider, which shows that a training provider with the lowest (or a comparable) tuition rate was selected. This information will document that the costs of the selected occupational skills training program are reasonable, and will be the basis for awarding points for program cost. Applications that demonstrate the reasonableness of their selected training provider’s tuition rate will receive 20 points for cost. Applications that do not demonstrate reasonable cost will receive no points for cost. Additionally, if the Applicant fails to demonstrate that costs are reasonable, and NYSDOL cannot independently document that the costs are reasonable, the Applicant may not be eligible for award, even if the Application’s technical score achieves the minimum score for award. Applicants are encouraged to use the Eligible Training Provider List (ETPL) as a resource for obtaining comparison quotes to their selected training program. A link to the ETPL can be found here: <https://applications.labor.ny.gov/ETPL/>.

If the Applicant has not provided the required number of comparison bids, or if the lowest cost tuition rate was not selected, compelling justification for the reason(s) the training provider was selected must

be provided. This justification will be reviewed by NYSDOL and may result in program cost points being awarded. If it is determined unallowable costs were included in the DBA during the Program Cost review, those costs may be removed during the award process or contract development, and will not be included in the contract of the successful Applicant.

D. Method of Selection

Applications must first be approved by the REDC's Executive Committee during the Phase One review outlined in Application Process (Section V.A.), and then meet all minimum eligibility requirements outlined in the Minimum Threshold Requirements Section (V.B.1.) of this RFA.

Applications that meet all minimum eligibility requirements will proceed to the review phase, where the application will be scored for Technical Merit (worth up to 80% of the total) by NYSDOL's Program Staff, and Program Cost (worth up to 20% of the total) by NYSDOL's Finance Bureau. Scores for each portion of the evaluation will be combined and result in the Application Final Score.

A complete response to each question is crucial to ensure full points are awarded.

Applications will be reviewed in the order they are received. Each application will be scored on its individual merit and will not be compared to other applications. Eligible applications that attain an Application Final Score of 70 points or more will be awarded funding. Successful applicants will be awarded on a continuous basis until the funds allocated to the UWT Program are exhausted. Eligible applications that fail to attain a total score of 70 points will be notified via letter and are eligible to revise their applications and reapply, if sufficient time and funding remain.

If an application achieves a score that would be awarded, but the costs are not reasonable to NYSDOL or the skills are not transferable, NYSDOL reserves the right to reject the application.

NYSDOL may award a contract for any or all parts of an application and may negotiate contract terms and conditions to meet agency program requirements consistent with the RFA.

It is important to note that:

- Ineligible Applicants will be disqualified before completing a review;
- Incomplete applications will be disqualified;
- All Applicants that are determined not to be responsive or responsible will be disqualified after completing a review;
- Applications that fail to meet requirements will be disqualified; and
- NYSDOL reviews will result in a final score.

VI. Award Administration and Information

A. Award Notices

All Applicants will receive a letter informing them of the decision on their application and successful Applicants will be contacted by NYSDOL's contract development staff. If awarded, the Applicant will also be notified of the maximum amount it has been awarded.

Applicants who receive an award must be prepared to enter into contract negotiations immediately and begin trainings no later than six months from the date of the award letter. NYSDOL reserves the right to rescind the award of any Applicant that is unable or unwilling to promptly engage in the contracting process or to begin conducting its trainings in accordance with the terms of the contract.

Applicants that have existing contracts for services identical to those proposed under this UWT RFA must serve new individuals and must have expended, and been reimbursed by NYSDOL for, at least 75% of the existing contract for participant services before an award will be made under the CFA WDI.

Applicants that receive an award under this program, successfully serve at least 75% of the planned participants, and have expended at least 75% of the awarded funds may apply again, if funding and time remain.

Applicants not awarded are entitled to request a debriefing from NYSDOL, which may include the reason(s) for the non-award and general guidance on the part(s) of the evaluation criteria that were not met. Such debriefing shall be requested within 15 calendar days of the notice of non-award. NYSDOL will respond to the debriefing request within a reasonable amount of time.

B. Payment

Once a contract has been developed and formally executed, funds will be released on a cost reimbursement basis. A Contractor must first pay for incurred expenses and then submit a voucher to NYSDOL for reimbursement. Vouchers must be submitted to NYSDOL on the prescribed forms before payment is made. For cost reimbursements to be approved, certain records must be kept and specific documents submitted. Contractors must provide documentation that the service was provided. This will include attendance records for each training session to document attendance or certificates of completion showing the participant completed all required elements of the training. Attendance sheets must include the Name of the Trainee, Signature of the Trainee, Signature of the Trainer, and Date and Hours of Training.

Expenditure reimbursement is based on individual participant attendance at occupational skills trainings. If the trainees attend up to and including 50% of the course, the reimbursement will be at the level of attendance achieved (i.e., individual trainee attends 30% of the course sessions, the reimbursement will be 30% of the tuition rate). For trainee attendance of 51% and above, the reimbursement will be for 100% of the tuition rate.

Please be advised that trainings may not begin until after an award is made. This includes the completion of application reviews, due diligence being confirmed, awardees determined, and award letters being issued. The start date for all contracts resulting from this solicitation may be no earlier than the date of the award letter issued by NYSDOL. Any training that begins or is paid for prior to the contract start date will fall outside the contract period and be ineligible for reimbursement. Further, all activities funded by the contract must end on or before the end date of the contract and any activities that occur after the end date of the contract will not be eligible for reimbursement.

NFP organizations and municipalities funded under the UWT Program are eligible for a cash advance of their award, up to 25% of total contract value, at the sole discretion of NYSDOL and subject to the availability of funds appropriated and available for contracts entered into pursuant to this solicitation. Any award must be expended on program activities in NYS.

Electronic Payments – Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary NYS procedures and practices. The Contractor shall comply with the NYS Comptroller's procedures to authorize electronic payments. Authorization forms are available at the NYS Comptrollers website at www.osc.state.ny.us/epay/index.htm, by email at helpdesk@sfs.ny.gov, or by telephone at 855-233-8363. The Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the NYS Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

C. General Requirements

All applications and accompanying documentation will become the property of the NYS and will not be returned. The content of each Applicant's application will be held in strict confidence during the evaluation process, and no details of the application will be discussed outside of the evaluation process. The successful Applicant's application and portions of the RFA deemed applicable by NYSDOL will be made part of the contract. Therefore, an official authorized to commit the company to a contract must sign the application.

D. Buy American Requirements

Applicants should be aware of the requirements of WIOA, section 502 which provides that none of the funds made available under Title I or II of WIOA or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. sections 8301 through 8303). It is the sense of Congress that entities receiving assistance should, in expending the assistance, purchase only American-made equipment and products. See WIOA, section 502 – Buy American Requirements included in the WIOA References (WIOA) attachment of this RFA.

E. Federal and NYS Executive Orders

Please note that the Federal WIOA funds supporting this initiative are subject to the following federal and NYS Executive Orders:

- Executive Order 13513 – Sec. 4. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Sub-recipients. Contractors, subcontractors, and recipients and sub-recipients are encouraged to adopt and enforce policies that ban text messaging while driving a vehicle when performing official Government business or work on behalf of the Government, and to conduct initiatives of the type described in section 3(a) of the Executive Order.
- Executive Order 12928 – The recipients are strongly encouraged to provide contracting/subcontracting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Business Owned and Controlled by Socially and Economically Disadvantaged Individuals.
- Executive Order 13043 – Recipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

- Executive Order 13166 – Recipients must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to programs in accordance with USDOL’s Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with LEP Volume 68, Number 103, Page 32289-32305. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.
- NYS Executive Order 177 – see [Section VIII](#) for further information.

F. Reservation Clauses

NYSDOL, in order to serve the best interests of NYS, reserves the right to:

- 1) Make no award;
- 2) Postpone or cancel this RFA upon notification to all Applicants;
- 3) Amend the specifications after their release with appropriate notice to all Applicants;
- 4) Move funding allocated among the NYSDOL CFA WDI programs if one or more of the programs have a shortage (or surplus) of: Applicants, quality applications, or funding requests;
- 5) Remove applications with unreasonable costs from award consideration;
- 6) Request Applicants to present supplemental information clarifying their application, either in writing or in formal presentation. Applicants failing to respond to these requests during the time allotted may be eliminated from funding consideration;
- 7) Waive or modify minor irregularities in applications received after prior notification to the Applicant. This will in no way modify the RFA documents or excuse the Applicant from full compliance with the RFA terms and conditions;
- 8) Correct any arithmetic errors in any application;
- 9) Reject any and all applications received in response to this RFA;
- 10) Contact an Applicants’ references as a check on qualifications;
- 11) Award contracts to more than one Applicant;
- 12) Negotiate with selected Applicant prior to contract award;
- 13) Rescind the award of any Applicant unable or unwilling to begin conducting its training activities immediately following contract execution. No Applicant will have any rights against NYSDOL arising from such negotiations;
- 14) Make any payment contingent upon the submission of specific deliverables; and
- 15) Require that all offers are held open for a period of 120 days unless otherwise expressly provided for in writing.

VII. Definitions

1. **Business Services Representatives:** Staff across NYS dedicated to assist businesses with their workforce needs including the NYS Job Bank and NYTalent, tax credits and other hiring incentives, apprenticeship programs, HR consultation, and layoff aversion. To contact a Business Services Representative, please find their contact information at <https://labor.ny.gov/formsdocs/factsheets/pdfs/p469.pdf>.
2. **Career Center System Required Partners (AKA Career Center Partners):** New York's Career Center System is funded by WIOA, and is made up of 33 Local Workforce Development Boards (LWDBs) that oversee their respective Local Workforce Development Areas (LWDAs) and 96 Career Centers. The System includes:

Core Program Partners:

- NYS Department of Labor - Responsible for delivering services under WIOA Titles I (Adult, Dislocated Workers, and Youth) and III (Wagner-Peyser);
- NYS Education Department - Responsible for delivering services under WIOA Titles II (Adult Education and Literacy) and IV (Vocational Rehabilitation); and
- NYS Office of Children and Family Services/Commission for the Blind - Responsible for delivering services under WIOA Title IV (Vocational Rehabilitation).

Other Career Center Partners:

- Temporary Assistance for Needy Families (TANF);
- Career & Technical Education;
- Title V Older Americans Act;
- Job Corps;
- Native American Programs;
- National Farmworkers Job Programs/Migrant and Seasonal Farmworker Programs;
- Jobs for Veterans State Grants (Chapter 4 of Title 38);
- YouthBuild;
- Trade Adjustment Assistance activities under the Trade Act of 1974, as amended;
- Community Service Block Grant Employment and Training activities;
- Housing and Urban Development Employment and Training activities;
- Unemployment Compensation; and
- Second Chance Act Reentry Employment Opportunity (REO) programs.

The Career Center System may also include strategic partners from education, economic development, and industry. Convenient and no cost job search services offered at the Career Centers:

<https://www.labor.ny.gov/formsdocs/factsheets/pdfs/p13.pdf>. Find the Career Center in your area: <https://labor.ny.gov/career-center-locator/>.

3. Career Development Services: Include services provided to trainees along with occupational skills training to develop their:

- Job search and attainment skills – Increase job placement potential by honing resume, cover letter, references development, mock interviews, networking, job search skills etc.;
- Career awareness, exploration and enhancement skills – Career awareness begins the process of developing knowledge of careers and occupations available, their skill requirements, working conditions and training prerequisites, and job opportunities across a wide range of industry sectors. Career exploration increases trainees' ability to explore career pathways and understand how their personal attributes (interests, skills, values, motivations, aptitudes and abilities) affect their potential success and satisfaction with different career options and work environments. Career counseling or guidance provides advice and support in making decisions about what career paths to take; and
- Work readiness, employability, and job retention skills – Increase job retention with a variety of services provided to an individual to have the necessary competencies, capabilities, and readiness to acquire or maintain an appropriate job. Such services could include teaching workplace professionalism (i.e., basic computer skills, time management, workplace behavior, team building, mindfulness, and communication).

These services can be provided in a variety of ways such as individual, peer or group mentoring; presentations; career assessments and exploration, using JobZone (www.jobzone.ny.gov); hands-on activities; field trips; demonstrations; group exercises, career informational fairs, etc. Information about JobZone: <https://www.labor.ny.gov/formsdocs/factsheets/pdfs/p87.pdf>.

4. Counties of Need: NYSDOL assigns each county of NYS into high, moderate, or low need based on indicators such as population, adult poverty rates, adult unemployment rates, adult literacy rates and the level of education attainment.

High Need	Medium Need	Low Need
Bronx	Allegany	Albany
Broome	Cayuga	Chemung
Cattaraugus	Chenango	Columbia
Chautauqua	Clinton	Cortland
Franklin	Delaware	Dutchess
Fulton	Erie	Essex
Greene	Jefferson	Genesee
Hamilton	Lewis	Livingston
Herkimer	Onondaga	Madison
Kings	Otsego	Nassau
Monroe	Rockland	Niagara
Montgomery	Schenectady	Ontario
New York	Schoharie	Orange
Oneida	Seneca	Putnam
Orleans	Steuben	Rensselaer

High Need	Medium Need	Low Need
Oswego	Suffolk	Richmond
Queens	Tompkins	Saratoga
Schuyler	Ulster	Tioga
St. Lawrence	Washington	Warren
Sullivan	Westchester	Wayne
Yates		Wyoming

5. **Credential:** An attestation of qualification or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. It does not refer to a certificate of completion for a course. Examples of credentials include:

- A secondary school diploma or its recognized equivalent; and
- Recognized postsecondary credentials which include Associate's and Bachelor's degrees; occupational licensures; occupational certificates, including Registered Apprenticeship and Career and Technical Education educational certificates; occupational certifications; and other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Recognized postsecondary credentials must be awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills and not the attainment of work readiness or general skills only (i.e., safety, hygiene, and computer security).

6. **Customized Training (WIOA Sec. 3 (14)):** Training that is:

- Designed to meet the specific requirements of a business (including a group of businesses);
- Conducted with a commitment by the business to employ an individual upon successful completion of the training; and
- For which the business pays:
 - A significant portion of the cost of training, as determined by the local board involved, taking into account the size of the business and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to competitiveness of a participant, and other business-provided training and advancement opportunities; and
 - In the case of customized training involving a business located in multiple local areas in NYS, a significant portion of the cost of training, as determined by the Governor of NYS, taking into account the size of the business and such other factors as the Governor determines to be appropriate.

7. **Distance Learning:** A method of classroom instruction wherein the trainee receives lessons remotely such as over the internet, via email or by mail.

8. **Full-Time Employment:** 35 hours per week or more.

9. Human Resources (HR) Training: Trainings needed or required to be provided to employees to better understand the workplace to improve the work environment and are not specific to the job or occupation of the employees. The provision of these HR trainings is a normal cost of doing business and is the responsibility of the business. Examples include, but are not limited to, basic trainings about: sexual harassment, diversity, new employee orientation, accessing reasonable accommodation, cyber security, internal controls, internet security, workplace violence, human relations and sensitivity at the work place, fire safety and evacuations, and workplace hazards that do not typically provide specific occupational skills.

10. Incentives: Encouragement for participants to meet certain benchmarks during the occupational skills training program.

11. Individual with a Barrier to Employment (WIOA Sec. 3 (24)): A member of one or more of the following populations:

- Displaced homemakers;
- Low-income individuals;
- Indians, Alaska Native, and Native Hawaiians as such terms are defined in 29 USCS § 3221;
- Individuals with disabilities (including youth with disabilities and recovering addicts);
- Older individuals (defined as individuals 55 and older, per WIOA §3(39));
- Currently and formerly incarcerated individuals;
- Homeless individuals or homeless children and youth;
- Youth who are in or have aged out of the foster care system;
- Individuals who are English Language Learners, have low levels of literacy, or those facing substantial cultural barriers;
- Eligible migrant and seasonal farmworkers;
- Single parents (including single pregnant women);
- Long-term unemployed individuals;
- Individuals within two years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act; or
- Other groups as the Governor determines to have barriers to employment.

For purposes of the CFA WDI, Veterans, Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) recipients are also considered individuals with a barrier to employment.

12. Leveraged Funding: A financial commitment (cash or in-kind) used by the Applicant toward the costs of a project available from source(s) other than the granting organization or the CFA WDI application process. Leveraging can be achieved by a commitment from the Applicant or through various partnerships.

13. Local Workforce Development Boards (LWDBs): A board, established in each local area of NYS and certified by the Governor, made up of members from business; workforce; entities administering

education and training activities; representatives of governmental, economic, and community development entities; and other individuals or representatives the chief elected official in the local area deems appropriate, tasked with creating a local plan, analyzing local labor market information and workforce development activities, engaging local business to develop linkages, developing career pathways, establishing best practices, and ensuring the appropriate use and management of funds in the local area.

- 14. Long-Term Unemployed:** Individuals, who at the time the appropriate training begins, have been unemployed for 20 weeks or more.
- 15. One-on-One Training:** A training provided in-house that consists of only one trainee and one trainer.
- 16. Occupational Skills Training:** Instruction conducted in an institutional or worksite setting designed to provide individuals with the skills required to perform a specific job or group of jobs needed by a business.
- 17. O*NET:** The nation's primary source of occupational information, made up of a database with information on hundreds of standardized and occupation-specific descriptors, and O*NET Online, an interactive application for exploring and searching occupations. For more information, please visit the website at <https://www.onetonline.org/>.
- 18. Priority Populations:** Individuals who meet the WIOA definition of Individual with a Barrier to Employment. Please refer to the Individual with a Barrier to Employment definition in Section VII and the DPP Attachment.
- 19. Published Tuition Rate:** The rate for each occupational skills training course that is published in written materials or online by the training provider.
- 20. Regional Economic Development Councils (REDCs):** Established by Governor Cuomo in 2011, the councils are tasked with developing long-term strategic plans for economic growth in each region and are public-private partnerships made up of local experts and stakeholders from business, academia, local government, and non-governmental organizations. For more information, please visit the website at <http://regionalcouncils.ny.gov/>.
- 21. Stand Alone Ineligible Training:** Training is considered "stand alone" when it is not part of a larger occupational skills training. This type of training is not allowable under the CFA. Examples of stand-alone training include:
 - Microsoft Office;
 - Basic safety training;
 - Sexual harassment training;
 - State or Federally mandated training (OSHA); or
 - HR training.
- 22. Stipend:** Monetary assistance for continued participation in the occupational skills training program.
- 23. Supportive Services:** Assist in removing barriers, faced by unemployed/underemployed workers, to participation in the CFA program and entering employment or upgrading to a higher level of employment. Such services are monetary or non-monetary and could include transportation, child

care, dependent care, housing, linkages to partner agencies, peer/group/individual mentoring strategies. Under the CFA, these services may also include miscellaneous trainee expenses or robust incentives for meeting certain benchmarks during the course of the occupational skills training or stipends to assist with remaining in the program. These services must be necessary to enable an individual to participate in the occupational skills training and career development services.

- 24. Training Provider:** An entity that provides a training program with one or more courses or classes, or a structured regimen that leads to a recognized post-secondary credential, secondary school diploma or its equivalent, employment, or measurable skill gains toward such a credential or employment.
- 25. Underemployed:** Underemployed individuals, as defined by WIOA, may include (1) individuals employed less than full-time who are seeking full-time employment; (2) individuals who are employed in a position that is inadequate with respect to their skills and training; (3) individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); and (4) individuals who are employed, but whose current job's earnings are not sufficient compared to their previous job's earnings from their previous employment, per State or local policy.
- 26. Workforce Innovation and Opportunity Act (WIOA):** WIOA was signed into law in July 2014, taking effect in July 2015, and replaced the Workforce Investment Act (WIA). WIOA is intended to help job seekers and workers access employment, education, training, and support services to succeed in the labor market, and match businesses with the skilled workers they need to compete in the global economy. For more information, please visit the website at https://www.doleta.gov/WIOA/eta_default.cfm.
- 27. WIOA Regional Workforce Plans:** Regional workforce plans are created by each LWDB, recognizing workforce as an integral part of economic development. Plans are intended to identify and leverage assets of the Career Center System, as well as support the REDC strategic planning and the role of NYS Workforce Investment Board (SWIB) in addressing workforce priorities. For more information, please visit the website at <https://www.labor.ny.gov/workforcenypartners/lwda/regional-plans.shtm>.

VIII. Attachments and Appendices by CFA Portal Question Number

Applicants must acknowledge that they have reviewed the informational attachments and upload the required attachments in the CFA portal.

CFA Portal Question	Acronym	Document Title	Required for submission?
Q_9352	BE	<u>Business Engagement</u>	Yes, Excel format
Q_9353	WPA	<u>Work Plan Attachment</u>	Yes, PDF format
Q_9354	DBA	<u>Detailed Budget</u>	Yes, Excel format
Q9355	BW	<u>Bid Worksheet</u>	Yes, PDF format
Q_9356	KC	<u>Key Contacts</u>	Yes, Excel format
Q_9315	ACBC	<u>Application for Competitively Bid Contract</u>	Yes, PDF with original signatures
Q_9299	VRAQ	<u>Vendor Responsibility Applicant Questionnaire</u>	Yes, PDF with original signatures
Q_9317	EO	<u>Executive Order (EO) 177 Certifications</u>	Yes, PDF with original signatures
Q_9351	UWT RFA	<u>Appendix - Unemployed/Underemployed Worker Training Request for Application</u>	No
	TR	<u>Appendix - Tuition Rate</u>	No
	GGPR	<u>Appendix - Grants Gateway Prequalification Requirement</u>	No
	OJZ	<u>Appendix – O*NET and Job Zone Information</u>	No
	PIR	<u>Appendix – Priority Industries by Region</u>	No
	DPP	<u>Appendix – Determining Priority Populations</u>	No
	WIOAPC	<u>Appendix – WIOA Partner Contact Information</u>	No
	SCNYS	<u>Appendix - Standard Clauses for all NYS Contracts</u>	No
	CTC	<u>Appendix - Combined Terms and Conditions</u>	No
	GISBA	<u>Appendix - General Information for Successful Bidders/Applicants</u>	No
	MC	<u>Appendix - Master Contract</u>	No
	WIOA	<u>Appendix - WIOA References</u>	No
	MWBE	<u>Appendix - Minority and Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) Requirements and Procedures</u>	No
Q_9360	MWBE-1	<u>MWBE and EEO Policy Statement</u>	Yes, PDF with original signatures
Q_9361	MWBE-2	<u>EEO 100 – EEO Staffing Plan</u>	Yes, PDF with original signatures

CFA Portal Question	Acronym	Document Title	Required for submission?
Q_9351	MWBE-3	<u>Appendix - EEO 101 – Workforce Utilization Report</u>	No, required quarterly AFTER Contract Award
Q_9358	MWBE-4	<u>MWBE 100 – MWBE Utilization Plan</u>	Yes, for Bidders requesting \$25,000 or more in grant funds, PDF format with original signatures
Q_9359	MWBE-5	<u>MWBE 101 – Application for Waiver of MWBE Participation Goal</u>	Yes, for Bidders requesting \$25,000 or more in grant funds and if MWBE participation is anticipated to be less than 15% in MBE and/or 15% WBE, PDF format with original signatures
Q_9351	MWBE-6	<u>Appendix - MWBE 105 – MWBE Quarterly Compliance Report</u>	No, required quarterly AFTER Contract Award
Q_9351	SDVOB	<u>Appendix - Service-Disabled Veteran-Owned Businesses (SDVOB) Requirements and Procedures</u>	No
Q_9348	SDVOB-1	<u>SDVOB 100 – SDVOB Utilization Plan</u>	Yes, for Bidders requesting \$25,000 or more in grant funds, PDF format with original signatures
Q_9351	SDVOB-2	<u>Appendix - SDVOB 101 – SDVOB Monthly Compliance Report</u>	No, required monthly AFTER Contract Award
Q_9350	SDVOB-3	<u>SDVOB 200 – Application for Waiver of SDVOB Participation Goal</u>	Yes, for Bidders requesting \$25,000 or more in grant funds and if SDVOB participation is anticipated to be less than 6%, PDF with original signatures

The three NYSDOL CFA WDI programs are: Existing Employee Training (EET), New Hire Training (NHT), and Unemployed/Underemployed Worker Training (UWT).

Note: This workforce product is partially funded by a grant awarded by USDOL's Employment and Training Administration (ETA). The product was created by NYSDOL and does not necessarily reflect the official position of USDOL. Neither USDOL nor NYSDOL make any guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership.

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE

Columbia County
Transportation & Solid Waste Disposal Services
Request for Proposal

A copy of the Columbia County Transportation & Solid Waste Disposal Services Request for Proposal has been filed with the Columbia County Board of Supervisors Clerk on November 12, 2019 and can be viewed on the Columbia County Government website – www.columbiacountyny.com by following the link to the "Solid Waste Department". As per NYS General Municipal Law Section 120-W a 60 day public comment period is required. *Comments are due by January 6, 2020 and should be sent to:* Jolene D. Race, Director, 401 State St., Hudson, NY 12534 or via email to: jolene.race@columbiacountyny.com

PUBLIC NOTICE

Division of Criminal Justice Services
Juvenile Justice Advisory Group

Pursuant to Public Officer Law 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Juvenile Justice Advisory Group.

Date: December 12, 2019
Time: 9:30 a.m. - 1:00 p.m.
Place: Division of Criminal Justice Services
80 S. Swan St.
3rd Fl., Rm. 348
Albany, NY 12210

Video Conference with:
Empire State Development Corp.
633 Third Ave., 37th Fl.

New York, NY 10007

For further information, contact: Thomas R. Andriola, Chief of Policy & Implementation, Office of Youth Justice, Division of Criminal Justice Services, 80 S. Swan St., 8th Fl., Albany, NY 12210, (518) 485-1833, email: Thomas.Andriola@dcjs.ny.gov

PUBLIC NOTICE

Office of General Services

Pursuant to Section 30-a of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Office of Children and Family Services has determined that the property known as the Middletown Residential Center located at 393 County Route 78, Town of Wallkill, County of Orange, State of New York improved with 28,000± sq. ft. of structures on 15± acres is no longer useful or necessary for their purposes and has declared the same abandoned for sale or other disposition as Unappropriated State land.

For further information, please contact: Thomas Pohl, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, e-mail: (518) 474-8831

PUBLIC NOTICE

Office of General Services

Pursuant to Section 30 of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Office of Mental Health (OMH) has determined that the 1.4 ± acres of vacant land located along US Route 11 in the Town of Hastings, County of Oswego, State of New York with tax identifier no. Section 242.13, Block 01, Lot 10 is no longer useful or necessary for their purposes and has declared the same abandoned for sale or other disposition as Unappropriated State land.

For further information, please contact: Thomas Pohl, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831

PUBLIC NOTICE

Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for non-institutional services to comply with enacted statutory provisions. The following changes are proposed:

Non-Institutional Services

Effective on or after January 1, 2020 and April 1, 2020 respectively, the Department of Health will adjust rates statewide to reflect a 2 percent Workforce Salary Increase for the following Office of Mental Health (OMH) licensed services: Assertive Community Treatment (ACT), Continuing Day Treatment (CDT), Comprehensive Psychiatric Emergency Programs (CPEP) services, Day Treatment Services for Children, freestanding Mental Health Clinic services, Partial Hospitalization services, and Personalized Recovery Oriented Services (PROS).

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the January 1, 2020, 2 percent Workforce Salary Increase initiative contained in the budget for State Fiscal Year 2020 is \$3,385,176.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to the April 1, 2020 2 percent Workforce Salary Increase initiative contained in the budget for State Fiscal Year 2020 is \$28,574,812.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. In addition, approved SPAs beginning in 2011, are also available for viewing on this website.

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

For further information and to review and comment, please contact:
Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, e-mail: spa_inquiries@health.ny.gov

PUBLIC NOTICE

Oneida-Herkimer Solid Waste Management Authority
Request for Proposals (RFP)
Purchase and/or Marketing of
Processed Paper Recyclables for
Oneida-Herkimer Solid Waste Management Authority

Pursuant to New York State General Municipal Law, Section 120-w, the Oneida-Herkimer Solid Waste Authority hereby gives notice of the following:

The Oneida-Herkimer Solid Waste Authority desires to procure an agreement for 5 years beginning January 1, 2020 for the purchase and/or marketing of paper recyclables processed at the Oneida-Herkimer Recycling Center, Utica, NY. Responses to the RFP must be received by 1:00 P.M. on December 2, 2019.

In order to promote its established Affirmative Action Plan, the Authority invites proposals from minority and women's business enterprises (M/WBE). Firms that are not M/WBE's responding to this RFP are strongly encouraged to consider partnering or creating other similar joint venture arrangements with certified M/WBE's. The directory of New York State Certified M/WBE's can be viewed at <http://www.esd.ny.gov/mwbe.html>. This Affirmative Action Policy regard-

ing sealed bids and contracts applies to all persons without regard to race, color, creed, national origin, age, sex, or handicap. All qualified bidders will be afforded equal opportunities without discrimination.

Copies of the RFP may be obtained at: www.ohswa.org or through Emily M. Albright, Director of Recycling, Oneida-Herkimer Solid Waste Authority, 1600 Genesee St., Utica, NY 13502, (315) 733-1224, e-mail: emilya@ohswa.org

PUBLIC NOTICE

Department of State
Notice of Review of Request for
Brownfield Opportunity Area
Conformance Determination
Project: 399 Ohio Street Site
Location: Buffalo River Corridor

Brownfield Opportunity Area, City of Buffalo, Erie County

In accordance with General Municipal Law, Article 18 - C, Section 970-r, the Secretary of State designated the Buffalo River Corridor Brownfield Opportunity Area, in the City of Buffalo, on November 27, 2017. The designation of the Buffalo River Corridor Brownfield Opportunity Area was supported by a Nomination or a comprehensive planning tool that identifies strategies to revitalize the area which is affected by one or more known or suspected brownfield sites.

Pursuant to New York State Tax Law, Article 1, Section 21, the eligible taxpayer(s) of a project site located in a designated Brownfield Opportunity Area may apply for an increase in the allowable tangible property tax credit component of the brownfield redevelopment tax credit if the Secretary of State determines that the project conforms to the goals and priorities established in the Nomination for a designated Brownfield Opportunity Area.

On October 3rd, 2019, 1093 Group, LLC submitted a request for the Secretary of State to determine whether the 399 Ohio Street Site, which will be located within the designated Buffalo River Corridor Brownfield Opportunity Area, conforms to the goals and priorities identified in the Nomination that was prepared for the designated Buffalo River Corridor Brownfield Opportunity Area.

The public is permitted and encouraged to review and provide comments on the request for conformance. For this purpose, the full application for a conformance determination is available online at: https://www.dos.ny.gov/opd/programs/pdfs/BOA/301_Ohio_BOA_Conformance_Application_10-2-19.pdf

Comments must be submitted no later than December 6th, 2019, either by mail to: Christopher Bauer, Department of State, Office of Planning and Development, 65 Court St., Suite 208, Buffalo, NY 14202, or by email to: chris.bauer@dos.ny.gov

PUBLIC NOTICE

Department of State
F-2019-0629
Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0629BerlandDock>

In F-2019-0629, or the "Berland Residential Dock", the applicant – Todd Berland – proposes to construct a dock consisting of a 4'x24' ramp leading to an 8'x30' float, two jet ski lifts and a 8'x8' seasonal swim float. The float will be anchored by concrete anchors and anchor chains. The purpose of the proposed project is to "enhance recreational mooring at private residence". The project is located at 22 Hudson

River Lane in the Town of Garrison, Putnam County on the Hudson River.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, December 5, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2019-0691

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0691_Hudson_Highlands_State_Park_Preserve_Dockside_Sustainable_Shoreline_Project_West_Street.pdf

In F-2019-0691, or the "Hudson Highlands State Park Preserve Dockside Sustainable Shoreline Project", the applicant – NYS Office of Parks, Recreation & Historic Preservation – proposes to stabilize a portion of the shoreline along Hudson Highlands State Park Preserve. The project focuses on enhancing ecological, recreational and floodplain functions with design elements that allow for continued functionality as sea level rises. The proposed design is meant to accommodate an increased frequency of inundation. Proposed actions include removing the existing riprap, concrete slabs and wrack along the shoreline. Grading the shoreline and installing bank stabilization features including boulder revetments, toe treatments, ice breaker boulders and native vegetation are proposed. Other proposed portions include installing a new paver mat boat ramp for nonmotorized, car top boats, a water access and sitting area, property easement signage, an information kiosk, and a gravel walkway. Removal of non-native vegetation and native planting is also proposed as part of the shoreline sustainability. The purpose of the proposed project is to "design a stabilized, sustainable Hudson River Shoreline at Dockside Park". The project is located at Dockside Park on West Street in the Village of Cold Spring, Putnam County on the Hudson River.

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, December 5, 2018.

Comments should be addressed to the Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2019-0712

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities

described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0712 or the "Kreitsek Property Project", the applicant Dolores Kreitsek, is proposing to construct a dock assembly consisting of 80 ft by 3 ft catwalk, 10 ft by 3 ft ramp and access ladder extending 14 feet into Marratooka Lake. The authorized work is located at 2455 New Suffolk Avenue, Town of Southold, Suffolk County, Marratooka Lake.

The applicant's consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0712_Kreitsek_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, December 20, 2019.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2019-0987

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2019-0987, Leslie, James and Craig Rich are proposing to remove and replace an existing bulkhead and groin. Also, to construct a 4' x 45' fixed pier with Flow-thru decking, a 3' x 14' ramp and 6' x 20' floating dock. The project is located at 1470 Hobart Road, Southold, NY 11971 on Town Creek.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0987Rich.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or December 20, 2019.

Comments should be addressed to the Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICEDepartment of State
F-2019-0996

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0996 or the “CFS Ferry Point Park Landing”, the applicant New York City Economic Development Corporation, is proposing to install a new 35 ft by 90 ft barge to accommodate two bowloading ferries. Four (4) anchor piles will secure the barge and four (4) monopiles will be installed to prevent collisions. Six (6) gangway landing piles 16 inches in diameter, will support the gangway platforms. The barge, gangways, and gangway platform will result in 4400 square feet of over water coverage. The authorized work is located at 100 Hutchinson River Parkway, Borough of Bronx, Bronx County, City of New York, East River.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0996_CFS_Ferry_Pt_Prk_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, December 20, 2019.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICEDepartment of State
F-2019-0997

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0997 or the “CFS Ferry St. George Landing”, the applicant New York City Economic Development Corporation, is proposing to install a new 30-foot by 90-foot barge with an 80-foot by 10-foot gangway connecting to the existing St. George Ferry Terminal. The landing will service one ferry vessel. The barge will be anchored by six 36-inch diameter pipe piles. The gangway will be connected to an existing concrete gravity wall upland. The authorized work is located at 1 Richmond Terrace, Staten Island, Richmond County, Upper Bay.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0997_CFS_St_George_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, December 20, 2019.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICEDepartment of State
F-2019-1007

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-1007 or the “Bush Terminal North Campus Project”, the applicant New York City Economic Development Corporation, is proposing to remove existing pile-supported platforms, over-sheeting of existing steel bulkheads, reorganizing of a stone revetment and installation of new cantilevered and pile supported platforms. The authorized work is located at Bush Terminal, Pier 6, Brooklyn, Kings County, New York Bay.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1007_Bush_Terminal_Pier_6_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, December 20, 2019.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICEDepartment of State
F-2019-1016 (DA)

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

A federal agency has determined that the proposed activity complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program. The agency’s consistency determination and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2019-1016(DA), The US Fish and Wildlife Service is proposing to enhance approximately 42 acres of encroached cattails in Eel Bay (Wellesley Island State Park) along the St. Lawrence River. The

proposed work will consist of excavating potholes and connecting channels, as well as the construction of habitat mounds to improve habitat connectivity for fish and other wildlife species and to promote native vegetation diversity. Construction is being proposed from February to mid-March 2020. Disturbed material will only include cattail (maximum excavation depth not to exceed 3 feet) that have been accreted since the Seaway inception and should not disturb native soils within the project area.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1016ForPN.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30-days from the date of publication of this notice, or, December 20, 2019.

Comments should be addressed to the Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2019-1024 (DA)

Date of Issuance – November 20, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

A federal agency has determined that the proposed activity complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program. The agency's consistency determination and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2019-1024(DA), The US Fish and Wildlife Service is proposing to enhance approximately 250 acres of encroached cattails in the French Creek Wildlife Management Area (WMA). The proposed work will consist of excavating potholes and connecting channels, as well as the construction of habitat mounds to improve habitat connectivity for fish and other wildlife species and to promote native vegetation diversity. Construction is being proposed from February to mid-March 2020. Disturbed material will only include cattail (maximum excavation depth not to exceed 3 feet) that have been accreted since the Seaway inception and should not disturb native soils within the project area.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1024ForPN.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30-days from the date of publication of this notice, or, December 20, 2019.

Comments should be addressed to the Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
Routine Program Change

STATEWIDE — Pursuant to 15 CFR 923.84(b)(4), the New York State Department of State (DOS) hereby gives notice that the National Oceanic and Atmospheric Administration's Office for Coastal Management (OCM) concurred on October 11, 2019 on the incorporation of the amendment to the City of Rochester Local Waterfront Revitalization Program (LWRP) into New York State's Coastal Management Program as a Routine Program Change. DOS requested OCM's concurrence on this action on July 17, 2019, in a previous notice in the New York State Register, which further described the content of the action.

The City of Rochester LWRP Amendment was prepared in partnership with DOS and in accordance with the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the New York State Coastal Management Program. The LWRP is a long-term intermunicipal management program for the City's waterfront resources along Lake Ontario, the Genesee River, Erie Canal, Densmore Creek and Irondequoit Creek, and is based on the policies of the New York State Coastal Management Program. The City of Rochester LWRP Amendment includes a comprehensive description of the existing and proposed land uses in the waterfront revitalization area, incorporates harbor management elements, and identifies the next generation of waterfront revitalization projects.

Pursuant to the New York State Coastal Management Program and Article 42 of the New York State Executive Law, the City of Rochester LWRP Amendment was adopted by resolution by the City of Rochester City Council on October 18, 2017, and approved by the New York State Secretary of State on August 17, 2018. Federal Consistency with the City of Rochester LWRP applies as of the date of this Notice.

OCM's concurrence includes the following list of changes and qualifications:

Changes Approved

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
ADDED:			
City of Rochester LWRP.	Art. 42 of NYS Executive Law	8/17/2018	8/17/2018
City of Rochester LWRP, Section 3, Waterfront Revitalization Policies. These contain the enforceable policies of the LWRP for CZMA review purposes.	Art. 42 of NYS Executive Law	8/17/2018	8/17/2018

Qualifications

As a standard qualification applying to all approval of enforceable policies, states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document, the referenced policy itself must be submitted to and approved by the Office for Coastal Management as an enforceable policy in order to be applied under the federal consistency review provisions of the CZMA. Therefore, no referenced policy in these approved enforceable policies may be applied for federal consistency unless that policy has been separately approved by the Office for Coastal Management.

For CZMA review purposes, the enforceable policies of the LWRP are only those enumerated bold-faced policy and sub-policy statements within Section 3. The explanatory text may not be used as a basis for issuing an objection under the state's CZMA authority.

As with other New York Coastal Management Program LWRPs, the

City of Rochester contains in Section 6 a list of Federal Actions and Programs Likely to Affect LWRP Implementation. This listing is not applicable for CZMA review purposes.

The amended City of Rochester Local Waterfront Revitalization Program is available at: http://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP_status.html, the website of the Department of State. *If you have any questions, please contact:* Barbara Kendall, DOS Office of Planning, Development & Community Infrastructure, 99 Washington Ave., Suite 1010, Albany, NY 12231, (518) 473-8928

PUBLIC NOTICE

Department of State Uniform Code Variance / Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2019-0650 Matter of JI Drafting, John Lagoudes, 707 Route 110, Suite A, Farmingdale, NY 11735, for a variance concerning safety requirements, including the required ceiling height. Involved is an existing one family dwelling located at 95 Clement Avenue, Town of Hempstead, NY 11003 County of Nassau, State of New York.

2019-0655 Matter of Tina Krist, Seven Main Street, W. Sayville, NY 11796, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 228 Grove Avenue, Town of Brookhaven, NY 11772 County of Suffolk, State of New York.

2019-0657 Matter of Points East Real Property Services, David Lee Radican, P.O. Box 794, 33 Montauk Hwy., Quogue, NY 11959, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 34 Brushy Neck Lane, Town of Southampton, NY 11977 County of Suffolk, State of New York.

2019-0658 Matter of Matthew Hassard, 31 West Meadow Road, Setauket, NY 11733, for a variance concerning safety requirements, including egress window opening size. Involved is an existing one family dwelling located at 31 West Meadow Road, Town of Brookhaven, NY 11733 County of Suffolk, State of New York.

2019-0659 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 45 University Drive, Town of Brookhaven, NY 11779 County of Suffolk, State of New York.

2019-0660 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 18 Bucaneer Lane, Town of Brookhaven, NY 11733 County of Suffolk, State of New York.

2019-0662 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 32 Ivy League Lane, Town of Brookhaven, NY 11790 County of Suffolk, State of New York.

PUBLIC NOTICE

Department of State Uniform Code Variance / Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise

indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2019-0652 In the matter of Sergio Preston, 103 Madison Street, Ithaca, NY 14850, concerning safety requirements including a variance for reduction in required height of existing interior stair handrails and guardrails.

Involved is the certificate of compliance inspection of an existing residential occupancy, two stories in height, located at 103 Madison Street, City of Ithaca, County of Tompkins, New York.

PUBLIC NOTICE

Susquehanna River Basin Commission

Commission Meeting

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on December 5, 2019, in Harrisburg, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice. Also the Commission published a document in the Federal Register on October 2, 2019, concerning its public hearing on October 31, 2019, in Harrisburg, Pennsylvania.

DATES: The meeting will be held on Thursday, December 5, 2019, at 9 a.m.

ADDRESSES: The meeting will be held at the Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: 717-238-0423; fax: 717-238-2436.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) informational presentation of interest to the lower Susquehanna River region; (2) proposed FY2020 fee schedule changes; (3) ratification/approval of contracts/grants; (4) a report on delegated settlements; (5) Regulatory Program projects; and (6) waiver requests that have been submitted to the Commission.

This agenda is complete at the time of issuance, but other items may be added, and some stricken without further notice. The listing of an item on the agenda does not necessarily mean that the Commission will take final action on it at this meeting. When the Commission does take final action, notice of these actions will be published in the Federal Register after the meeting. Any actions specific to projects will also be provided in writing directly to project sponsors.

Regulatory Program projects listed for Commission action were those that were the subject of public hearings conducted by the Commission on October 31, 2019, and identified in the notices for such hearings, which was published in 84 FR 52552, October 2, 2019.

The public is invited to attend the Commission's business meeting. Comments on the Regulatory Program projects are subject to a deadline of November 12, 2019. Written comments pertaining to other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110-1788, or submitted electronically through www.srb.com/about/meetings-events/business-meeting.html. Such comments are due to the Commission on or before November 26, 2019. Comments will not be accepted at the business meeting noticed herein.

Authority: Pub. L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: October 31, 2019

Jason E. Oyler,

General Counsel and Secretary to the Commission