

ConnectALL Deployment Program – County Partnerships

Request for Applications



Issued: April 8, 2024

Updated: May 9, 2024

Contact: ConnectALLDeployment@esd.ny.gov using the subject line “County Partnerships RFA”

This Request for Applications (“RFA”) is posted on the Empire State Development website:
<https://broadband.ny.gov/connectall-deployment-program-county-partnerships>

**Applications must be submitted through the New York State Consolidated Funding
Application (CFA) Portal:**

<https://apps.cio.ny.gov/apps/cfa/index.cfm>

APPLICATION DUE DATE:

May 17, 2024

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Overview

Objective

The mission of the New York State Urban Development Corporation d/b/a Empire State Development (ESD) is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance. ConnectALL is Governor Kathy Hochul's initiative to address New York State's digital divide, transform the state's digital infrastructure, and ensure that all New Yorkers have access to reliable and affordable high-speed broadband internet service. ESD's ConnectALL Office, as the entity responsible for implementing the ConnectALL initiative, offers grants through multiple programs to close the digital divide, promote a robust broadband marketplace, and ensure all homes and businesses have access to reliable, affordable, high-speed internet.

The ConnectALL Deployment Program – County Partnerships (the “Program”), through this Request for Applications (RFA), aims to address locations that do not have access to reliable, affordable, high-speed internet service by providing grants for broadband deployment to Counties that have conducted competitive processes to identify internet service provider partner(s) to serve those locations.

The ConnectALL Office will be the administrator of the Program. As such, the ConnectALL Office, or its duly authorized representative, will determine Program structure and requirements, evaluate Applicant information, monitor Grantees for project completion and satisfactory performance, collect Grantee data to ensure compliance with all Program requirements and verify allowable uses of funds, and approve disbursement of grant funds to selected Grantees.

Background

Program Background

ConnectALL is administering the ConnectALL Deployment Program with funding from the federal Broadband Equity, Access, and Deployment Program (BEAD) to reach all unserved and underserved locations in the state.¹ ConnectALL expects to open the ConnectALL Deployment Program grant application in September 2024, pending approval by the National Telecommunications and Information Administration of the Department of Commerce, which administers BEAD. Grants awarded through that solicitation will fund the deployment of broadband to all unserved and underserved locations across New York State. Based on the federal timeline, ConnectALL expects projects under these grants to commence in 2025 and take up to four years to complete.

New York locations that are otherwise eligible for new service under the ConnectALL Deployment Program will be removed from eligibility based on the existence of an enforceable commitment from a service provider to a government entity to bring service to those locations in the future. To the extent that Counties have initiated their own procurement processes prior to the issuance of this RFA and, pending sufficient funding, are prepared to enter into enforceable commitments with service providers to address unserved and underserved locations in their jurisdiction by the application deadline of this RFA, ConnectALL will consider making grant awards to those Counties, or to their identified partners, through this RFA.

¹ As defined by the National Telecommunications and Information Administration, “Unserved Location” refers to an address that has no access to broadband service, or lacks access to Reliable Broadband Service offered with a speed of not less than 25 Mbps for downloads; a speed of not less than 3 Mbps for uploads; and latency less than or equal to 100 milliseconds. An “Underserved Location” refers to an address that lacks access to Reliable Broadband Service offered with a speed of not less than 100 Mbps for downloads; a speed of not less than 20 Mbps for uploads; and latency less than or equal to 100 milliseconds. “Reliable Broadband Service” means broadband service accessible via fiber-optic, cable modem/hybrid fiber-coaxial, digital subscriber line, or licensed terrestrial fixed wireless technologies.

Funding Sources

This Program's funding comes primarily from the New York State Executive Budget and from funds administered by ConnectALL pursuant to multiple settlement agreements between the New York State Public Service Commission and various entities.

Project Requirements

Projects funded through the Program must meet the requirements below. If an Applicant would like to request a waiver for any of the requirements based on hardship, then a written justification must be provided to explain the reason(s) for the hardship and the purported inability to comply with the requirement.

For all Applicants, the minimum requirements are as follows:

- **Project readiness:** Applicants must be able to submit a conditional subaward or package of conditional subawards, ready or nearly ready for execution, along with details on their completed competitive selection process that demonstrate with reasonable certainty that their Designated Partner(s) is the optimal provider(s) of service for the awarded locations, as determined by ConnectALL in the exercise of its duly authorized discretion.
- **Project completeness:** Applicants must demonstrate, to the satisfaction of ConnectALL in the exercise of its duly authorized discretion, that the proposed addresses include all or substantially all of the unserved and underserved locations in the county.²
- **Applicant capability:** Applicants must demonstrate an ability to administer the awards, ensure the fulfillment of all obligations by Designated Partners, and meet all CAO reporting requirements.³
- **Reliable delivery of high-speed internet service that meets the Minimum Performance Requirements:** Projects must meet the minimum performance requirements described in Table 1, including the delivery of reliable internet service at speeds of at least 100 Mbps download and 20 Mbps upload, with preference for projects that provide connections capable of symmetric Gigabit per second service.
- **Cost share:** Applicants and Designated Partner(s) must contribute a minimum of 25% of the total project cost; the match percentage will be calculated based on the sum of all cost contributions from the Applicant, Designated Partner(s), and any other sources noted within the Applicant's funding request. Cost contributions higher than 25% will be awarded additional points under the "Funding Request" evaluation criterion.

Minimum Performance Requirements

ConnectALL requires all infrastructure funded through this Program to be capable of supporting retail broadband service that meets the minimum performance requirements specified in Table 1.

² ConnectALL's goal is to connect 100% of unserved and underserved locations in the county, utilizing fiber optic infrastructure for at least 95% of such locations. If the County's proposed project will not reach all unserved and underserved locations in the county, or if the County proposes to deploy an alternative non-fiber technology, the County will be required to include an explanation with its application as to why such locations were excluded and/or why alternative technologies are proposed.

³ Reporting requirements will be further enumerated in the relevant GDA, but will at minimum include semiannual reporting of locations to be served by the project, the status of deployment to each location, classification of each location (residential, commercial, or community anchor institution), descriptions of facilities constructed, advertised and actual speeds of service being offered, pricing of service being offered, any contracts or subcontracts awarded, details on project expenditures, and details on project workforce utilization.

Table 1: Minimum Performance Requirements

Performance Criterion	Requirement	Measurement Method
Minimum speed available to subscriber	100/20 Mbps	Measure using traffic generation software or other industry-standard testing software or hardware
Latency (round trip ping time from user premises to core site router)	< 100ms	Measure using ping test generated via command line or industry-standard testing software or hardware
Average outage time per subscriber	Less than 48 hours over any 365-day period	Measure using dashboard real-time network monitoring software
Network availability	99.5% of the time over a one-month period	Measure using dashboard real-time network monitoring software
Other criteria	No data caps or usage-based throttling	Measure using traffic generation software or other industry-standard testing software or hardware

Network Design Requirements

Projects must use end-to-end fiber optic solutions. A licensed fixed wireless or hybrid solution can be used if the Applicant can demonstrate that a fiber optic solution is not feasible due to deployment conditions or high cost. Applicants must demonstrate sufficient network design requirements in the materials submitted with their application.

Other Requirements

Applicants must follow all the applicable requirements of the New York State WIRED Broadband Act⁴.

Program Assistance

Grants

The Program makes available financial assistance in the form of grants for use by Applicants or their Designated Partners (defined below). Funds are available for the eligible uses described in **Eligible Uses**, and for the additional activities to be set forth in the grant disbursement agreement (GDA) that ConnectALL will negotiate and execute with each Grantee. ConnectALL anticipates awarding a total of up to \$50 million through this Program.

Eligible Applicants

Eligible Applicants for Program funds are **New York Counties** that, prior to the date of issue of this RFA, have already issued their own requests for proposals and/or conducted comparable competitive solicitation processes to designate internet service provider partner(s) ("Designated Partners") to serve unserved and underserved locations in their jurisdiction **AND** that will have completed their selection before the application deadline for this RFA. Although Counties will be the Applicants to this RFA, ConnectALL may make grant awards to Counties or directly to their Designated Partner(s), depending on the County Applicant's proposed grant administration arrangement and ConnectALL's assessment of administrative capacity.

⁴ See <https://www.nysenate.gov/legislation/bills/2021/S8008> at Part MMM.

Eligible Uses of Funds

Eligible uses for Program funding include direct expenses related to broadband deployment and/or subgrants to Designated Partners to deploy broadband service to locations that:

- are otherwise considered eligible for funding under the ConnectALL Deployment Program;
- do not currently have access to wired internet service of at least 100 Mbps download and 20 Mbps upload, as demonstrated by tangible evidence submitted by the relevant County, that is adjudged to be sufficient by ConnectALL in its discretion; or
- can be served at marginal additional cost as part of the implementation of service to unserved and underserved locations.

Ineligible Uses: Program funds may not be used for County or internet service provider operational expenses; all grant funds are to be used to recover the costs of broadband deployment.

Application Content and Scope of Services

Applicants shall deliver a unique application containing all the required information detailed in the sections below.

1) Applicant Profile, Experience, and Qualifications

- a. County name
- b. Point of contact name
- c. Email
- d. Phone number
- e. For each Designated Partner:
 - i. Entity name
 - ii. Point of contact name
 - iii. Email
 - iv. Phone number
 - v. Entity type
 - vi. EIN
 - vii. Website
 - viii. Total years in operation
 - ix. Total years in operation in New York State
 - x. MWBE certified? (Y/N)
- f. Provide an organizational chart identifying all key personnel (including Designated Partner personnel) who will be involved in administering the grant and overseeing implementation. The organizational chart should clearly identify which roles are existing or new for the project and show lines of reporting between personnel involved in the project and County executives.
- g. Provide resumes for all key personnel that demonstrate their relevant experience and qualifications.
- h. Describe the County's proposed grant funding arrangement with ConnectALL for this grant award. Will the County receive and administer funds as subgrants to Designated Partner(s), or does the County propose that grants be made directly to Designated Partner(s)? Who will be responsible for managing the ConnectALL grant and managing all related administrative and reporting tasks?
- i. Describe the County's experience with broadband planning and managing broadband and/or similar infrastructure deployment projects.
- j. Describe the County's experience administering grant funds. If the County has previously administered grant funds from ESD, provide details.
- k. Describe the County's proposed project management approach for monitoring deployment progress and inspecting projects to verify completion and compliance with all requirements.

2) County Selection Process

- a. What process did the County use to identify unserved and underserved locations within its jurisdiction?
- b. How did the County determine service areas for the solicitation?
- c. Provide an overall timeline of the solicitation and selection process, including at minimum: the date of solicitation issue, application deadline, and date of conditional awards or other milestones indicating the selection of a specific entity (or entities) and onset of negotiations.
- d. What outreach was conducted for the solicitation?
- e. Provide a copy of the Request for Proposals or other solicitation document used to identify potential partners.
- f. Provide a list of all entities who responded to the solicitation, noting which entities were interviewed and which were selected.
- g. Provide a copy of the proposals submitted by the Designated Partner(s) that were selected.
- h. Why is the Designated Partner(s) the optimal partner(s) to serve the selected locations? Include details on any relevant factors the County considered, including cost, time to deployment, technology solution, quality of service, past experience, labor standards, financial stability, or other factors identified by the County and incorporated into its selection process.
- i. Provide a brief summary of any proposals that were considered but not selected, including for each: the number of locations to be covered, the technology approach proposed, and the total project cost.

3) Project Details and Technical Approach

- a. Complete and upload the Project Location List Template to identify which unserved, underserved, and served locations in the county will be passed or connected by the proposed project. Indicate which locations were awarded to which Designated Partner, along with the proposed speeds and proposed technology to be deployed to each location (i.e., fiber optic or licensed fixed wireless). For any unserved or underserved locations that were not awarded, include the County's reasoning.
- b. Complete and upload the Service Details Template to provide details on the service tiers and pricing that will be provided to customers upon completion of the project.
- c. Provide details on how the proposed project(s) will meet the Program's Minimum Performance and Network Design Requirements. If non-fiber technology is proposed for any locations, please provide an explanation as to why a fiber optic solution was not pursued.
- d. Provide a summary of the operational terms for the network(s) to be deployed including which entities will be responsible for ownership, maintenance, and operation of the assets; whether broadband service, fiber strands, or other services/assets will be provided to the County and/or municipal governments; whether public Wi-Fi or other community benefits will be provided by the network; and any other relevant operational terms agreed upon between the County and Designated Partner(s).
- e. Provide a timeline of the proposed deployment, with milestones including at minimum: construction kickoff; construction completion to 25%, 50%, 75%, and 100% of awarded locations; and final project testing and acceptance.

4) Program Alignment and Compliance

- a. Projects funded through this Program will be subject to Minority- and Women-Owned Business Enterprise (MWBE) participation goals. Describe how the County and its Designated Partner(s) plan to achieve the goals for MWBE participation applicable to this Program (see Appendix A).
- b. Complete and upload the MWBE Utilization Plan (see Appendix A).
- c. As a condition of the Grant Award, the County will need to ensure that its funded projects and Designated Partner(s) comply with the conditions, policies, and requirements for the ConnectALL Deployment Program as described in the New York State WIRED Broadband Act. The County will be required to secure documentation and commitments from its Designated Partner(s) after

conditional award, but prior to final award, demonstrating compliance with all applicable requirements. Complete and upload the Program Alignment Checklist to confirm that the County has reviewed, and will be able to ensure compliance with relevant provisions of the WIRED Broadband Act including, but not limited to: deploying service at a minimum speed of 100/20 Mbps, certifying compliance with relevant safety standards and workplace protections, providing a workforce plan, and paying prevailing wages to all workers employed on ConnectALL-funded projects (see Checklist for full list of applicable provisions). If there are any conditions, policies, and/or requirements described in the WIRED Broadband Act that the County objects to incorporating into its agreements with Designated Partner(s), specify and provide a justification for why the County and its Designated Partner(s) should be exempted from the conditions, policies, and/or requirements at issue. Note: ConnectALL may decline to fund a County partner based on any lack of alignment between the form of agreement(s) utilized by the County versus the conditions, policies, and/or requirements that are generally applicable to ConnectALL Deployment Program forms of agreement.

- d. To the maximum extent possible, ConnectALL seeks to align projects funded through this Program with the conditions, policies, and/or requirements applicable to other deployments that will be funded through the ConnectALL Deployment Program, as described in ConnectALL's BEAD Initial Proposal, Volume II.⁵ Complete and upload the Program Alignment Checklist to confirm that the County has reviewed and will be able to ensure compliance with relevant provisions of the Initial Proposal, Volume II including, but not limited to: securing consents for projects on Tribal lands; providing additional labor and employment practice and workplace safety certifications; promoting the participation of minority-owned, women-owned, and labor surplus area firms; aligning procurement with Build America, Buy America requirements; offering a Low-Cost Service Option; and providing additional certifications related to cybersecurity and supply chain risk management (see Checklist for full list of applicable provisions). If there are any conditions, policies, and/or requirements described in ConnectALL's BEAD Initial Proposal, Volume II that the County objects to incorporating into its agreements with Designated Partner(s), specify and provide a justification for why the County and its Designated Partner(s) should be exempted from the conditions, policies, and/or requirements at issue. Note: ConnectALL may decline to fund a County partner based on any lack of alignment between the form of agreement(s) utilized by the County versus the conditions, policies, and/or requirements that are generally applicable to ConnectALL Deployment Program forms of agreement.
- e. Identify any conditions, policies, and/or requirements that the County would incorporate into its forms of agreement in addition to those described in the WIRED Broadband Act and ConnectALL's BEAD Initial Proposal, Volume II.
- f. Complete the Waiver Request Template to identify any Program Requirements for which the County seeks a waiver, other than those specified under items 4(c) and 4(d) above. For each waiver request, clearly specify the requirement the County seeks to have waived and provide a justification to explain the reason(s) for the hardship and the purported inability to comply with the requirement.

⁵ See <https://broadband.ny.gov/broadband-deployment-initial-proposal>. Please note that this document is currently pending final approval from the National Telecommunications and Information Administration. If through the approval process, any material changes are made that will affect compliance requirements for this Program, ConnectALL will notify potential applicants via an addendum to this RFA (or via written notification, if after the RFA application deadline).

5) Funding Request

- a. Complete and upload the Funding Request Template to provide details on the proposed project budget, sources of funds, cost share, and pro forma projections.

6) Disclosures and Acknowledgement of Requirements

- a. Confirm whether the County and/or its Designated Partner(s):
 - i. Are presently the subject of any litigation, or if any litigation is threatened, which would have a material adverse effect on the County/Partner's financial condition.
 - ii. Have ever been involved in bankruptcy, a creditor/s rights or receivership proceeding, or sought protection from creditors.
 - iii. Have ever settled a debt with a lending institution for less than the full amount outstanding.
 - iv. Have ever had a senior manager or principal convicted of any felony or misdemeanor, other than a minor traffic violation, or whether there are any such charges pending.
 - v. Have been cited for a violation of federal, State, or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution, or operating practices.
 - vi. Have any outstanding judgments or liens pending against them other than liens in the normal course of business.
 - vii. Are delinquent on any New York State, federal, or local tax obligations.

The County and/or its Designated Partner(s) will be required to provide an explanation for any "Yes" answers given above.

- b. Acknowledge that the County is not receiving funding from other federal or State sources for the same activities proposed for County Partnerships Program funding.
- c. Acknowledge that County Partnerships Program funding cannot be used for costs incurred prior to an award of funding.
- d. Acknowledge review of and compliance with any/all addenda to this RFA. CAO reserves the right to amend the application requirements.

Application Process and Timeline

Table 2: Grantee Selection Timeline

Milestone	Date
RFA issued	April 8, 2024
Opening of Consolidated Funding Application (CFA) Portal	April 19, 2024
Information session	April 23, 2024
Application submission deadline	May 17, 2024
Anticipated announcement of conditional awards	June 2024
Anticipated incentive proposal execution	June 2024
<i>All RFA schedule descriptions and dates are tentative and subject to change.</i>	

Information Session

ConnectALL will hold a Program Information Session via Webinar on April 23, 2024. All parties interested in responding to this RFA are encouraged to attend and can register [here](#). ConnectALL will review the RFA process and expound on the terms of the RFA. Anything stated at this Information Session is not intended to change the solicitation document. Any changes will be in writing in the form of an addendum issued by ConnectALL posted on the website: <http://broadband.ny.gov>. Slides and the recording of the Program Information Session will be made available following the session at <http://broadband.ny.gov>.

Q&A Process

Applicants may communicate with the ConnectALL Office. All questions or requests for clarification must be in writing, sent by email to ConnectALLDeployment@esd.ny.gov. Please include "County Partnerships RFA" in the subject line of the email.

Applicants are encouraged, but not required, to submit questions by April 22, 2024, in advance of the Program Information Session.

Deadline and Procedures for Submitting Applications

Applications to this RFA must be received by ConnectALL no later than 5:00 p.m. Eastern Time on Friday, May 17. Respondents are encouraged to submit applications as soon as they are able; applications will be reviewed in the order in which they are received. Applications must be submitted via New York State's Consolidated Funding Application (CFA) at <https://apps.cio.ny.gov/apps/cfa>. Applications will be accepted through the CFA beginning on April 19, 2024. The application package can be found at <http://broadband.ny.gov>.

ConnectALL reserves the right to modify the schedule in order to meet the goals of the Program.

Application Review

Upon receipt of applications, ConnectALL will review applications for eligibility, completeness, quality, readiness, and conformance with this RFA. Applications shall be processed in full compliance with the applicable provisions of federal and state law, including 16-GG*2 of the New York State Urban Development Corporation Act⁶.

Selection Criteria

Following the evaluation of the proposals based on the requirements listed under **Project Requirements**, ConnectALL will score the projects based on the following evaluation criteria. Based on the availability of funds, ConnectALL will deem the highest-scoring proposals to be conditionally approved.

Table 3: Application Evaluation Criteria

	Evaluation Criterion	Scoring Weight
1	Applicant Profile, Experience, and Qualifications <i>Qualifications of key personnel, past management experience, past grant administration experience, project management approach</i>	5%
2	County Selection Process <i>Openness and competitiveness of solicitation process, justification for Designated Partner(s) selection</i>	20%
3	Project Details and Technical Approach <i>Scale of unserved/underserved need addressed, proposed technology, alignment with Performance Requirements, proposed deployment timeline</i>	30%

⁶ See https://www.nysenate.gov/legislation/laws/UDA/16-GG*2.

	Evaluation Criterion	Scoring Weight
4	Program Alignment and Compliance <i>Ability to comply with WIRED Act and Initial Proposal, Vol. II, requested waivers</i>	15%
5	Funding Request <i>Total cost, level of cost share, ConnectALL per-location contribution, soundness of financial assumptions</i>	30%
	Total	100%

Agreement Terms

All capital grants above \$250,000 are subject to ESD Board Approval, a public hearing, and Public Authorities Control Board Approval.

As a condition of the grant award, ConnectALL and the Grantees will enter into a Grant Disbursement Agreement (GDA), which will outline the Program's stipulations for compliance with Program requirements and penalties for failures to comply.

The financial structure of the GDA may differ based on each Grantee (or Subgrantee), the agreed-upon scope of work, the regional variation in costs associated with the Project, and the pricing of the work in relation to market fluctuations as best as the pricing can be understood in advance of the work execution. Depending on the project, Subgrantees may be party to the GDA.

The anticipated terms of the Grant agreements awarded will range, including start dates beginning June 2024. Payments are expected to be made in the form of reimbursement of expenses at agreed-upon project milestones that meet specific project requirements. The final portion will be due upon ConnectALL's site inspection and verification of substantial completion of the project. Operating expenses will not be eligible for reimbursement.

ConnectALL may provide a separate set of terms for long-term quality and use of broadband to provide affordable service in the form of Service-Level Agreements (SLAs) between the Grantee and/or Subgrantee and end-users. The SLA outlines the terms for service speed, uptime, latency, privacy, and customer service offerings, in accordance with ConnectALL's service performance expectations.

Respondents must submit a fee and contracting structure that ensures competitive pricing, compliant with all applicable laws and regulations. A not-to-exceed (NTE) amount will be established as part of the contract negotiations. However, ConnectALL reserves the right to select any payment structure that is in the State's best interest.

ESD typically requires a commitment fee of 1% of the capital grant amount. Grantees may be required to submit a commitment fee upon acceptance of their award.

Appendix A: MWBE Commitment and Compliance Plan

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ESD 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 ESD contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, ESD hereby establishes an overall goal of 30 percent for MWBE participation, 15 percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15 percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFA, the respondent agrees that ESD 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 ESD will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. [The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.]

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this RFA, such finding constitutes a breach of contract and ESD 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, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting the Office of Contractor and Supplier Diversity (“OCSD”) at OCSD@esd.ny.gov.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. 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 ESD for review and approval.

ESD will review the submitted MWBE Utilization Plan and advise the respondent of ESD acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCSD at OCSD@esd.ny.gov, a written remedy in

response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by ESD to be inadequate, ESD shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

ESD may disqualify a respondent as being non-responsive under the following circumstances:

- a. If a respondent fails to submit an MWBE Utilization Plan;
- b. If a respondent fails to submit a written remedy to a notice of deficiency;
- c. If a respondent fails to submit a request for waiver; or
- d. If ESD determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to ESD but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly MWBE Contractor Compliance & Payment Report to ESD, 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.

Document Change Log

Version	Date Published	Summary of Changes
1.0	April 5, 2024	Initial publication
1.1	May 9, 2024	<ul style="list-style-type: none">• Revised to amend application deadline to May 17, 2024• Corrected header styles to update Table of Contents