



Department of Agriculture and Markets

RFP0342

Statewide Financial System Event ID # CACF7

REQUEST FOR PROPOSALS

for the

**2024-2025 NEW YORK STATE
COMPANION ANIMAL CAPITAL PROJECTS FUND**

***Competitive Grants to Municipal and Incorporated Not-for-Profit
Pounds, Shelters Humane Societies, and Rescue Facilities***

RFP Posted	October 30, 2024
Questions Due	November 29, 2024
Final Answers Posted	December 6, 2024
Proposals Due	December 20, 2024, 4:00 PM
Tentative Award Date	January 31, 2025
Tentative Contract Start Date (2-year contracts)	March 3, 2025

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1. INTRODUCTION

1.1 Overview

The New York State Department of Agriculture and Markets (the “Department”) invites eligible municipal and incorporated not-for-profit pounds, shelters, humane societies, and rescue facilities, excluding rescues operating from a residence, to submit proposals for funding consideration from the Companion Animal Capital Projects Fund. Grant funds are available for the costs of capital projects, including construction, renovation, rehabilitation, installation, acquisition or expansion of buildings, equipment or facilities necessary for the secure containment, health, and adequate care of sheltered dogs and cats.

Funding for this RFP is available pursuant to an appropriation in the 2024-2025 state fiscal year capital projects budget.

1.2 Questions and Answers

All questions must be submitted in writing and must be received by 4:00 PM, November 29, 2024. Please submit all written questions to:

Name: Ana Colon, LVT

Address: 10B Airline Drive, Albany, NY 12235

Email: Ana.Colon@agriculture.ny.gov

A list of questions, answers to those questions, as well as any changes, additions, or deletions to the RFP will be posted in the Funding Opportunities section of the Department’s website at <https://agriculture.ny.gov/funding-opportunities>. The Department will post Questions and Answers as soon as possible, but in no event later than December 6, 2024. All questions and answers shall be incorporated in the RFP as a formal addendum.

1.3 Eligible Applicants

Municipal and incorporated not-for-profit pounds, shelters, humane societies, and rescue facilities, excluding rescues operating from a residence, are eligible applicants. Such entities must be a pound or shelter for dogs established and maintained pursuant to Section 114 of the New York Agriculture and Markets Law or registered with the Department pursuant to Section 408 of the Agriculture and Markets Law. *Please note, entities that have been awarded funds during previous Companion Animal Capital Projects funding opportunities are eligible to apply for an award under this RFP if the previously funded projects are complete at the time of application.*

All not-for-profit applicants must be pre-qualified in the Statewide Financial System (SFS) at the time the application is submitted for their application to be eligible for review. See **Section 3** of this RFP for information on how to register and prequalify in SFS.

1.4 Available Funding

Funding in the amount of \$10,450,000 will be available under this RFP. \$4,000,000 will be reserved for projects in underserved municipalities or regions, for such pounds, shelters, humane societies, or rescue facilities excluding rescues operating from a residence, that are not operated by or under contract with one or more municipalities for the provision of pound or

shelter services but that are registered with the Department and can demonstrate providing similar pound or shelter services.

2. PROJECT REQUIREMENTS

2.1 Eligible Projects

Only capital projects necessary for the secure containment, health and adequate care of sheltered dogs and cats are eligible for funding. For purposes of this program, a *project* may be a portion of a larger overall capital project. For example, if your organization is building a new shelter, you may request funding for only a heating and ventilation system, with the understanding that this is a portion of a larger capital project that you are funding with other resources. The *total project cost* for this program would be the cost of the heating and ventilation system.

2.2 Eligible Costs

Eligible expenses include direct costs related to the:

- construction
- renovation
- rehabilitation
- installation
- acquisition, or
- expansion of buildings, equipment or facilities.

See Appendix 1 of this RFP for further guidance on eligible costs.

2.3 Match Requirements

Applicants will need to provide a minimum of ten percent (10%) of the *total project costs*.

Matching funds must be in the form of cash and applied to cost categories listed in Section 2.2.

Upon award, successful applicants will be required to provide evidence of the availability of matching funds before a contract is issued.

See Appendix 2 of this RFP for further guidance on the proper calculation of matching funds.

2.4 Project Duration

Actual construction must begin within three (3) months of the date the contract is approved by the Office of the New York State Comptroller (OSC). Projects must be completed within two (2) years of the date the contract is approved by OSC.

3. PROPOSAL REQUIREMENTS

3.1 Proposal Format

All proposals must be submitted online through the [Statewide Financial System \(SFS\) Vendor Portal](#) by 4:00 PM local time on December 20, 2024. Applicants, and not computers or servers, are responsible for the timely submission of proposals. Proposals received after the scheduled date and time will not be accepted. Faxed, mailed or e-mailed proposals will not be accepted.

3.2 SFS Registration

Your organization must be registered on the Statewide Financial System to apply for this grant opportunity. To start this process, please read the instructions found here:

<https://grantsmanagement.ny.gov/register-your-organization-sfs>.

NOTE: New York State Grants Management reserves 5-10 business days from the receipt of complete materials to process a registration request. Due to the length of time this process could take to complete, it is advised that new registrants send in their registration form as soon as possible. Failure to register early enough may prevent potential applicants from being able to complete a grant application on time.

Organizations are notified by email once registration is complete.

3.3 Pre-Qualification in SFS

All not-for-profit organizations that intend to submit a proposal in response to this RFP must be prequalified by the date and time applications are due. **Your proposal will be rejected and not considered for funding under this RFP if your organization is not prequalified in SFS by the date and time applications are due.**

To prequalify, a not-for-profit organization must first register with SFS and complete an online Prequalification Application. This includes answering basic questions regarding the organization and uploading key organizational documents.

Note: Once Prequalified, it is the responsibility of nonprofits to maintain Prequalification. Three of a not-for-profit's essential financial documents – the IRS990, Financial Statement, and Charities Bureau filing – expire on an annual basis. A nonprofit must upload current versions of these documents and submit an updated prequalification application for review and approval each year to maintain prequalification. Nonprofits are provided a full 10.5 months from the end of their fiscal year to provide a current IRS990 or Financial Statement without the interim requirement of uploading extension requests. For more information regarding the pre-qualification process, please view the [Prequalification Manual for Grantees](#).

NOTE: New York State reserves 5-10 business days from the receipt of complete Prequalification applications to conduct its review. If supplementary information or updates are required, review times will be longer. Due to the length of time this process could take to complete, it is advised that nonprofits Prequalify as soon as possible. Failure to successfully complete the Prequalification process early enough may result in a grant application being disqualified.

3.4 Completing an Application

Applicants must respond to each of the sections as provided in the Grant Opportunity posted in SFS to create a proposal to be submitted to the Department. Each proposal will be comprised of the applicant's responses to the "Applicant Questions" (including required attachments), completion of a proposed Work Plan and Budget for the proposed project.

3.5 Technical Assistance with SFS

Resources available to help grant applicants apply for grants in SFS are available on the Grants

Management website at the following web address:
<https://grantsmanagement.ny.gov/resources-grant-applicants>.

Information for live help desk support can be found at <https://grantsmanagement.ny.gov/contact-sfs>.

4. PROPOSAL EVALUATION & AWARDS

4.1 Receipt of Proposals

The Department will first screen applications to ensure that they meet all eligibility and proposal completeness requirements. All proposals deemed eligible by the Department will be competitively rated by evaluator(s) designated by the Department.

4.2 Scoring Criteria

The applicant will be asked to answer the following Applicant Questions as part of the online application in SFS. **Applicants should reference the 2010 Association of Shelter Veterinarians (ASV) Guidelines in their response to each question.** Specific ASV guidelines that will be addressed by the project must be referenced in the proposal. Proposals will be scored based on the applicant's responses to the questions in each category. A total of 100 points are available based on the scoring criteria outlined below.

1) Need Assessment (45 points)

- a) What are the main objectives as they relate to the secure containment, health, and adequate care of sheltered dogs and cats?
- b) How will the project help the applicant meet the requirements of the new shelter standards of care, signed into law as Chapter 683 of the laws of 2022, to take effect in 2025?
- c) Why is the project important and/or needed in the target municipality(ies) or region?
- d) Why and how is the need to complete the project urgent?
- e) How will the project positively impact animals in your organization's care?
- f) Complete the Annual Statistics Report worksheet provided in the Event Comments and Attachments Section of this Bid Event in SFS and attach it to your application.

2) Project Description (35 points)

- a) Provide detailed project cost estimate(s) from appropriate vendors.
- b) Provide a list of construction materials and/or equipment that **comply with ASV guidelines**. Please cite the specific ASV guidelines related to the project.
- c) Provide detailed floor plan(s) of intended construction drawn by an architect or, if the project involves the installation or acquisition of equipment or building repairs, provide contractor and/or vendor specifications as appropriate.
- d) Does your organization have local support? To achieve maximum points, letters from your veterinarians, elected officials, and any not-for-profit organizations that you partner or collaborate with on an ongoing basis are recommended. The content of the letters should adequately describe the writer's knowledge of your organization and the intended

project. Multiple letters are encouraged. **Letters from corporate sponsors, volunteers, or adopters will not be considered. Only letters that are uploaded into SFS (do not mail or e-mail) will be considered.**

- e) The Work Plan that you will develop in SFS, which includes Objectives, Tasks and Performance Measures, will be scored as part of this section.
- f) Provide an organization overview including management structure.

3) Reasonableness of Cost (20 points)

- a) Provide evidence that costs **align with ASV guidelines**. Please cite the specific ASV guidelines related to the project.
- b) Provide a financial overview for your project. Identify the primary sources of funding for the project. If you are only applying for funds to cover the cost of a portion of an overall larger capital project, please explain how the remaining portions of the project will be funded. The information you provide in this section should identify all sources of funding for the overall capital project, and the budget section of your SFS application should reflect the discrete portion of the project for which you are applying for funding. Please see Appendix 2 of this RFP for further guidance on answering this question.

4.3 Awards

Evaluation Process

Proposals will be evaluated based on each of the scoring criteria outlined in **Section 4.2**. Proposals will be divided into two categories:

1. Pounds or shelters for dogs established and maintained pursuant to Section 114 of the New York Agriculture and Markets Law (i.e. municipal shelters); and
2. Pounds or shelters that are not operated by or under contract with one or more municipalities for the provision of pound or shelter services but that are registered with the Department and can demonstrate providing similar pound or shelter services to underserved municipalities or regions (i.e. non-municipal shelters).

Evaluators' final scores will be averaged, and proposals will be ranked by their average final score from highest to lowest within each of the two categories of projects to form two ranked lists.

The maximum available score is 100 points. All scores will be recorded using whole numbers (no decimals). All projects receiving average scores at or above 65 will be considered worthy of funding; all projects scoring below 65 will not be recommended for funding, regardless of funding availability.

Funding of Ranked Projects

Funds will be allotted separately to each project category as detailed in **Section 1.5** of this RFP. Awards will be made in each project category in order of rank until the scoring threshold has been reached or available funds for the category are exhausted. In the event there are remaining funds within a category after all eligible projects have been funded or in the event remaining funds are not sufficient to completely fund the project ranked next on the list, any remaining funds will be pooled and the remaining eligible unfunded projects from each list will

be combined into a single list in order of rank. Funds will then be awarded to the next eligible projects in ranked order that can be fully funded, until the funds are exhausted, or the scoring threshold is reached.

Tie Breaker

If two or more proposals have the same final score and there are not enough available funds remaining to fully fund all those proposals, then the projects to be awarded shall be determined by the following tie-breaking procedure (in order of priority sequence).

First Category – If only enough funding is available to award one of the tied proposals in its entirety, then that proposal shall receive the award.

Second Category – If enough funds are available to cover the amount of more than one tied proposal then the proposal that includes a higher cash/match contribution percentage will receive the funding award.

4.4 Debriefing

Upon request, the Department will provide a debriefing to any unsuccessful applicant as to the reasons the proposal submitted was not selected for an award. To request a review of an unsuccessful application, contact the Division of Fiscal Management via e-mail at procurement.info@agriculture.ny.gov. A debriefing must be requested within fifteen (15) calendar days of the date of the notice of non-award.

Following a debriefing, any unsuccessful applicant will have ten (10) calendar days to protest the non-award decision. Protests must be submitted in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the non-award decision by Department.

5. PROJECT REPORTING REQUIREMENTS

5.1 Quarterly Reports

Awardees will be required to submit brief quarterly reports to the Department to provide timely information on the success of the project. Claim for Payment Forms submitted will not be processed for projects that are not up to date with the filing of their quarterly reports.

5.2 Reimbursement Request Reports

An interim progress report and an updated revised budget that summarizes work completed on the project shall accompany each request for reimbursement of project expenses (Claim for Payment Form). The Department will monitor contract performance and reserves the right to modify reporting requirements during the project term.

5.3 Final Report

A final report will be required within thirty (30) days following completion of the project. The final report shall include a detailed description of the work completed; an assessment of the potential for future viability of the project; and a description of problems encountered, if any, which affected completion of the project. In addition to the final report, the Department reserves the right to conduct a follow-up survey of funded projects in order to determine long-term impacts.

The Department and OSC reserve the right to audit the applicant's books and records relating to the performance of the project during and up to six (6) years after the completion of the project.

6. CONTRACTS & PAYMENT TERMS

6.1 Contracts

A contract defining all terms and conditions and responsibilities of the awardee will be developed by the Department after funds have been awarded. The contract will incorporate the work plan and budget included in the awardee's project proposal among its provisions.

Upon execution of the contract by the awardee and the Department, it will be submitted for approval to the Office of the New York State Attorney General (OAG) and OSC.

6.2 State of New York Contract for Grants

New York State has developed a standard contract for grants that is required for all State grant contracts. The State of New York Contract for Grants will be executed for all projects awarded under the Companion Animal Capital Projects Program, and awardees are responsible for complying with the terms and conditions contained therein.

The Master Contract can be found at:

<https://grantsmanagement.ny.gov/system/files/documents/2023/12/january-2024-contract-for-grants.pdf>.

Attachments to the Contract will include: (A-1) "Agency Specific Terms and Conditions"; (A-2) "Program Specific Terms and Conditions"; (B-3) "Capital Based Budget"; (C) "Work Plan"; (D) "Payment and Reporting Schedule"; and (E) "Insurance Requirements".

6.3 Payment

Once the contract is fully executed, grant funds will be disbursed on a reimbursement basis. Awardees may request, at the discretion of the Department, an initial payment of up to twenty-five percent (25%) of the total grant award. The Department shall retain ten percent (10%) of the award amount to be disbursed to the contractor upon acceptance of the Final Report. A signed New York State Claim for Payment Form must be submitted to the Department for the contractor to be reimbursed for funds expended.

Payment to the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, at the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary state procedures and practices. The Contractor shall comply with OSC's procedures to authorize electronic payments. Contractor acknowledges that it will not receive payment on any Claim for Payment Form submitted under this agreement if it does not comply with OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

6.4 Workers' Compensation & Disability Insurance

New York State Workers' Compensation Law sections 57 and 220 require that the Department not enter into a contract unless proof of Workers' Compensation and Disability Insurance in a form satisfactory to the New York State Workers' Compensation Board has been secured.

Please visit the New York State Workers' Compensation Board website, www.wcb.ny.gov, for more information. You may contact the Board's Bureau of Compliance with any questions related to workers' compensation or disability insurance at (866) 298-7830.

6.5 Liability

The Department shall not be held liable for any costs incurred by any party for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a contract.

7. CONSIDERATIONS

7.1 Reserved Rights

The Department reserves the right to:

- reject any or all proposals received with respect to this RFP;
- waive or modify minor irregularities in proposals received after prior notification and concurrence of the applicant;
- utilize any or all ideas submitted in the proposals received unless those ideas are covered by legal patent or proprietary rights;
- request from an applicant additional information as deemed necessary to more fully evaluate its proposal;
- amend the program's specifications after their release, with appropriate written notice posted on the Department's website;
- select only certain portions of proposals for state funding;
- conduct a follow-up survey of funded projects to determine long-term impacts;
- make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant; and
- negotiate the terms of the budget.

All proposals submitted in response to this RFP will become the property of the New York State Department of Agriculture and Markets.

7.2 Freedom of Information

All proposals submitted and all related contracts and reports may be subject to disclosure under the Freedom of Information Law.

7.3 NYS Office of Parks, Recreation & Historic Preservation Requirements

Projects which include ground-disturbing activities, construction of new buildings, or modification of buildings over 50 years old will be subject to further review by the NYS Office of Parks,

Recreation and Historic Preservation (OPRHP). The Department reserves the right to request such additional information as is necessary to allow OPRHP to make a determination regarding the potential impacts of the project on historical sites or artifacts and possible alternatives which avoid or mitigate adverse impacts.

7.4 NYS Environmental Quality Review Act Requirements

Some projects may be subject to review under the New York State Environmental Quality Review Act (SEQRA). The Department reserves the right to request additional information as needed to comply with SEQRA requirements.

7.5 Contractor Requirements and Procedures for Participation by New York State-Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

Note: MWBE requirements are not expected to be fulfilled until after a grant has been awarded and a contract has been executed.

New York State Law

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

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Department hereby establishes an overall goal of 30% for MWBE participation, 15% for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 15% 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 RFP, the respondent agrees that the Department may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how the Department will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

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 RFP, such finding constitutes a breach of contract and the Department may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a 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 Department’s MWBE Liaison at 518-485-1325 or supplierdiversity@agriculture.ny.gov. All MWBE Forms and Instructions are included in the Submission Documents.

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 the Department for review and approval.

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

The Department 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 the Department 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 the Department 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 M/WBE Contractor Compliance & Payment Report to the Department, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

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

The respondent will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, (See Submission Documents, Form MWBE EE01), to the Department with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by the Department on a quarterly basis during the term of the Contract.

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

7.6 Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Businesses

Note: SDVOB requirements are not expected to be fulfilled until after a grant has been awarded and a contract has been executed.

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"s), thereby further integrating such businesses into New York State's economy. The Department 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 Department contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are expected to consider SDVOBs in the fulfillment of the requirements of the Agreement. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

- A. The Department 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, Contractor should reference the directory of New York State Certified SDVOBs found at: <https://online.ogs.ny.gov/SDVOB/search>. Questions regarding compliance with SDVOB participation goals should be directed to the Department's Supplier Diversity Liaison at supplierdiversity@agriculture.ny.gov. 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 Agreement.
- B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Agreement (see clause IV below).

II. SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Contractor agrees to submit a completed SDVOB Utilization Plan on Form SDVOB 100 at such time as shall be required by the Department.
- B. The Utilization Plan shall list the SDVOBs that Contractor intends to use to perform the Agreement, a description of the work that Contractor intends the SDVOB to perform to meet the goals on the Agreement, 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, Contractor 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 the Agreement for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs during the term of the Agreement must be reported on a revised SDVOB Utilization Plan and submitted to the Department.
- C. The Department will review the submitted SDVOB Utilization Plan and advise Contractor of the Department's acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Contractor agrees that it shall respond to the notice of deficiency, within seven (7) business days of receipt, by submitting to the Department a written remedy in response to the notice of deficiency. If the written remedy that is

submitted is not timely or is found by the Department to be inadequate, the Department shall notify Contractor and direct Contractor to submit, within five (5) business days of notification by the Department, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for a determination of non-responsibility by the Department.

E. The Department may deem Contractor non-responsive under the following circumstances:

1. If Contractor fails to submit an SDVOB Utilization Plan;
2. If Contractor fails to submit a written remedy to a notice of deficiency;
3. If Contractor fails to submit a request for waiver; or
4. If the Department determines that Contractor has failed to document good faith efforts.

F. Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Agreement pursuant to the prescribed SDVOB contract goals set forth above.

G. 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 Agreement. Upon the occurrence of such a material breach, the Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

A. Prior to submission of a request for a partial or total waiver, Contractor shall speak to the Department's Supplier Diversity Liaison for guidance.

B. In accordance with 9 NYCRR § 252.2(m), a Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. Contractor may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Department at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with Contractor's waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Agreement. Requests for a partial or total waiver of established goal requirements may be made at any time during the term of the Agreement to the Department but must be made no later than prior to the submission of a request for final payment on the Agreement.

D. If the Department, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101), determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to Contractor. Contractor

must respond to the notice of deficiency within seven (7) 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 the Department.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Agreement. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Contractor's solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Department with certified SDVOBs whom the Department determined were capable of fulfilling the SDVOB goals set in the Agreement.
- (4) Information describing the specific steps undertaken to reasonably structure the Agreement scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to the Department during the term of the Agreement for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 and should be completed by Contractor and submitted to the Department Supplier Diversity Liaison, by the 10th day of each month during the term of the Agreement, for the preceding month's activity to: supplierdiversity@agriculture.ny.gov.

VI. 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 Agreement, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/veterans/>

APPENDIX 1: ELIGIBLE EXPENSES

Per the RFP, only capital projects necessary for the secure containment, health, and adequate care of sheltered dogs and cats are eligible for funding. Eligible expenses include direct costs related to the construction, renovation, rehabilitation, installation, acquisition, or expansion of buildings, equipment, or facilities.

Ineligible expenses cannot be included in your SFS budget as grant funding **nor** match funding. **If you are unsure of whether an expense is eligible, please email a detailed request for information to: Ana.Colon@agriculture.ny.gov.**

Examples of ineligible expenses:

- medical equipment or facilities used for community or outpatient services;
- labor performed by shelter employees, volunteers, or management – unless performed by municipal employees;
- the purchase of land;
- architect and/or design fees;
- archeological study on land to be used for a facility;
- blacktopping a driveway; and
- vehicles.

Examples of eligible expenses:

- direct costs related to the construction, renovation, rehabilitation, installation, acquisition, or expansion of buildings, equipment, or facilities necessary for the secure containment, health, and adequate care of sheltered dogs and cats.
- labor performed by outside employees (contractors, etc.);
- labor performed by municipal employees;
- project oversight by shelter management;
- HVAC (heating, ventilation, and air conditioning) system; and
- medical equipment or facilities used exclusively for sheltered dogs and cats.

APPENDIX 2: MATCH CALCULATION AND BUDGET FORMULATION

For purposes of this program, a *project* may be a portion of a larger overall capital project. For example, if your organization is building a new shelter, you may request funding for only a heating and ventilation system, with the understanding that this is a portion of a larger capital project that you are funding with other resources. The *total project cost* for this program would be the cost of the heating and ventilation system.

Match Calculation

The following match calculation examples are intended to assist you in formulating a proper budget within SFS.

Example 1

A large capacity, metropolitan animal shelter that serves several municipalities has been using the same facility for 50 years. The shelter has \$5,000,000 to build a new facility and will be applying for a grant to subsidize the installation of an HVAC (heating, ventilation, and air conditioning) system within the new facility. For the purposes of this grant program, building a new facility is considered the **overall capital project**, and the HVAC system is considered the **Project**. The shelter must provide matching funds equal to at least 10% of the **total project cost**.

Overall Capital Project: Build a new shelter facility.

Overall Capital Project Cost: Approximately \$5,000,000.

Project: Install an HVAC system in the new facility.

Total Project Cost: \$600,000.

Minimum Match Required: 10% of \$600,000 = \$60,000.

Amount of Grant Funding Requested: \$500,000 (maximum award amount).

In the budget section of SFS, this shelter will formulate a budget around \$600,000, the **total project cost**, \$500,000 of which will be accounted for by grant funding, \$100,000 of which will be accounted for by match funding since the maximum award amount is \$500,000.

Throughout the Applicant Questions in the SFS application, as well as in the Work Plan, the shelter will discuss the **Project**. However, in Applicant Question 3B (Provide a financial overview of your project), the shelter will provide documentation that supports the funding of the **Overall Capital Project**.

Example 2

A shelter serving an individual municipality hopes to install a new drainage system within their animal housing areas. After receiving an estimate from a contractor, they expect the total project to cost \$225,000. In this case, since there is no overarching larger project, the drainage system is both the **Overall Capital Project** and the **Project**.

The shelter must provide matching funds equal to at least 10% of the **total project cost**.

Overall Capital Project: Install a new drainage system.

Overall Capital Project Cost: \$225,000.

Project: Install a new drainage system.

Total Project Cost: \$225,000.

Minimum Match Required: 10% of \$225,000 = \$22,500

Amount of Grant Funding Requested: \$202,500.

In the budget section of SFS, this shelter will formulate a budget around \$225,000, the **total project cost**. \$202,500 of which will be accounted for by grant funding, \$22,500 of which will be accounted for by match funding.

Throughout the Applicant Questions in the SFS application, as well as in the Work Plan, the shelter will discuss the **Project**. In Applicant Question 3B (Provide a financial overview of your project), the shelter will provide documentation that supports the funding of the **Project**, since in this case their Project and Overall Capital Project are the same.

Budget Formulation

Both grant and match funding must be eligible costs, which are *direct* expenses related to the construction, renovation, rehabilitation, installation, acquisition, or expansion of buildings, equipment, or facilities. The only categories under the Capital Budget section that should be filled out are “Acquisition,” “Construction,” and “Administration.” Please include detailed, itemized (where applicable) lists in the Capital Budget portion of the application. Larger concepts and goals, such as planned construction, should be explained throughout your application and on the Work Plan, whereas smaller concepts, such as supplies and labor, should be outlined in the budget.

It is recommended to list labor/installation under the “Construction” section of the Capital Budget. Please note that labor or installation completed by shelter management, employees, or volunteers will not be covered by this grant program. Project oversight by shelter management may be placed in the “Administration” section of the Capital Budget.

Please see **Appendix 1** for examples of eligible and ineligible costs. Any questions should be submitted in writing via a detailed email to Ana.Colon@agriculture.ny.gov.