



Office of Economic and Community Development
City of Kingston
420 Broadway
Kingston, NY 12401

REQUEST FOR PROPOSALS

7663 HUD CONSOLIDATED PLAN

The City of Kingston, NY is seeking a consultant to develop a Five-Year Consolidated Plan and associated documents for the City of Kingston, NY for HUD Program fiscal years 2019 – 2023. The Office of Economic and Community Development (OECD) is requesting proposals from qualified firms and/or individuals with proven experience developing Consolidated Plans – or similar planning documents – in compliance with all associated federal laws and regulatory requirements. The department intends to submit the Consolidated Plan to the HUD Region II Office by Wednesday, June 5, 2019.

Five (5) hard copies and one (1) flash drive of the proposals will be received by the Purchasing Dept., City of Kingston, City Hall, 420 Broadway, First Floor, Kingston, NY 12401. **Proposals must be received no later than 11:00 a.m. (local time), Tuesday, November 20, 2018.**

The City encourages all minority and women-owned business enterprises to submit proposals in response to all requests for proposals and will not be discriminated against on the grounds of race, color, national origin or any other protected class for all proposals or negotiated agreements.

The RFP can be found on the City's website at www.kingston-ny.gov, New York State Contract Reporter at www.nyscr.ny.gov, or via email.

Questions regarding bid submittal or process should be directed to Ameer Peterson, Admin. Asst., OECD, apeterson@kingston-ny.gov or 845-334-3960.

Questions concerning the scope of the project should be directed to Brenna Robinson, Director, OECD, brobinson@kingston-ny.gov or 845-334-3924.

All questions must be submitted in writing via email to Brenna Robinson, no later than Tuesday, November 13, 2018.

I. INTRODUCTION

A. Background In late 1994, the U.S. Department of Housing and Urban Development (HUD), created the requirement of the Consolidated Plan (CP), a local government comprehensive planning document required for application for funding under any of the Department's formula grant programs. The formula grant programs received by the City of Kingston are the Community Development Block Grant (CDBG) Program and the HOME Investment Partnership Program (HOME).

The City is a CDBG Entitlement Community and a HOME Participating Jurisdiction. Kingston currently receives over \$650,000 in CDBG funds of which \$250,000 is earmarked for housing rehabilitation with the remainder applied to the City's and subrecipients' facilities' upgrades and programs.

The Consolidated Plan is designed to be a collaborative process whereby a community establishes a unified vision for affordable housing and community development actions. The Consolidated Plan must identify a jurisdiction's housing and community development needs, set priorities, and describe how HUD and other resources will be used for activities designed to meet needs. The Consolidated Plan also creates the opportunity for comprehensive strategic planning and citizen participation to take place in a comprehensive context.

The statutes for the formula grant programs set forth three basic goals against which the Plan and the jurisdiction's performance under the plan will be evaluated by HUD. Each jurisdiction must state how it will pursue these goals for all affordable housing and community development programs. The statutory goals are: decent housing; a suitable living environment; and expanding economic opportunities – all principally for persons of low and moderate income.

Consolidated Plan regulations are found at Part 24 of the Code of Federal Regulations (CFR) in Section 91. The introduction to the Consolidated Plan regulations can be found in the Federal Register of January 5, 1995, Vol. 60, No. 3. CDBG regulations are located in Part 24 of the CFR, but in Section 570. HUD has issued guidelines for preparing the Consolidated Plan through its web-based format, the eCon Planning Suite. Information can be found on HUD's website: <https://www.hudexchange.info/consolidated-plan/econ-planning-suite/>.

B. Context Nestled at the foot of the Catskills to the west and bounded by the Rondout Creek and Hudson River to the east, Kingston is an economically and racially diverse community. With a population of just under 25,000, Kingston has faced its share of challenges during the recent, prolonged economic downturn. Kingston has recently formed a land bank and is the recipient of a Local Initiatives Support Corporation grant with the primary objective to reduce vacant and "zombie" properties. Additionally, the City will continue to apply to HUD to address lead paint in our housing stock through the Lead-Based Paint Hazard Control Program. The City is a recipient of an EPA Brownfields Community-Wide Assessment grant with the objective for clean-up and reuse plans to facilitate redevelopment of brownfields that are contaminated, or believed to be contaminated, by hazardous substances and/or petroleum. Kingston has also been awarded \$10,000,000 for New York State's Downtown Revitalization Initiative grant, which will fund targeted projects to increase

housing units, create jobs, and improve public facilities. Our Residential Emergency Services to Offer (Home) Repairs (RESTORE) grant will rehabilitate three (3) homes in Kingston's Mid-town, located in one of the county's lowest socio-economic census tracts. Finally, Kingston was awarded over \$600,000 for New York State's Department of Health Lead-Service Line Replacement Program to address lead hazards by removing lead water pipes connected to affected homes in a targeted area.

II. SCOPE OF SERVICES REQUIRED

A. Objectives: The following objectives should be considered in the development of the Plans:

- 1) The plans should meet HUD's requirements and deadline for required Plans;
- 2) Development of the Plans should use existing data to help determine housing, homeless, special population, and community development needs. To the extent it is available, development of the Plans should incorporate the most current data via the U.S. Census Bureau's American Community Survey (ACS),
- 3) Development of the Plans should foster a participatory process that facilitates participation at all levels, especially with low and moderate income persons, racial/ethnic minorities, and persons with barriers to participation, including all in legally protected classes;
- 4) Development of the plan should involve consultation with a broad sector of public and private agencies for collaboration and collective problem solving in determining needs, objectives, goals and priorities;
- 5) The Plans should consider all community needs, and resources available to meet those needs;
- 6) Based on identified community needs, the Consolidated Plan should:
 - Indicate general priorities for allocating funds to the various housing and community development needs identified in the Plan;
 - Indicate the basis or reason behind the priority level (and relative priority) given to each category of priority need;
 - Identify any obstacle to meeting underserved needs;
 - Summarize specific objectives for meeting the needs in each priority area describing funds reasonably expected to be made available;
 - Identify quantifiable proposed accomplishments for each specific objective.
- 7) The Annual Action Plan should illustrate specific uses of the first year's funding under the 5-Year Consolidated Plan.
- 8) The Plans should report on specific items required by HUD, such as reducing the number of families living in poverty and removing barriers to affordable housing;
- 9) The Plans should be structured to serve as a basis for the City's Funding

Allocation processes and for assessing performance on an annual basis;

- 10) The Plan should consider established planning documents for the City of Kingston, including, but not limited to “Kingston 2025” and the Analysis of Impediments to Fair Housing Plan that will be updated this contract.

B. Services

- 1) The services to be performed under the proposal include, but are not limited to:
 - a) Statistical and informational data collection and preparation of charts and narrative to prepare a housing and homeless needs assessment (24 CFR 91.205) and housing market analysis (91.210);
 - b) Consultation with public and private agencies as outlined in 24 CFR 91.100, including those that provide: affordable/subsidized housing; health and public/human/social services; state or local health and child welfare agencies regarding lead based paint hazards; adjacent units of local government, including planning agencies; Kingston Housing Authorities; and agencies receiving HOPWA funds within the City of Kingston;
 - c) Citizen participation activities such as publishing information, surveys, coordinating meetings, focus groups and hearings, and summarizing. Such activities must be carried out consistent with HUD guidance regarding providing meaningful language access and must respond to public comments as outlined in 24 CFR 91.100;
 - d) Using needs information obtained through data collection, consultation and citizen participation to make recommendations for a Consolidated Plan as outlined in 91.215 and for any associated policy issues;

C. Deliverables The consultant will be responsible for providing one original paper copy and one electronic copy submittal in HUD’s required eCon Planning Suite web-based format of the Five-Year Consolidated Plan and First Year Annual Action Plan.

- 1) Consolidated Plan, Action Plan and Citizen Participation Plan

The consultant will be selected to prepare (and assist with the submittal in the format/form as may be required by HUD and/or the HUD Region II Field Office) one or more of the following Consolidated planning documents required to receive a direct allocation of CDBG and HOME funds.

- Develop 5-Year plan for the program year beginning 2016-2020 and the required Annual Action Plan for the 2015/2016 program year in accordance with HUD requirements.
- Prepare a Consolidated Plan in accordance with Chapter 24 of the Code of Federal Regulations (CFR) Part 91, and which addresses 25 CFR Part 570 and other applicable federal regulations and current requirements.

- Perform relevant consultations and data collection to complete the required HUD tables and the analysis of housing and non-housing needs.
- Prepare an Executive Summary for the Consolidated Plan and Action Plan
- Assist City staff to assess the existing community need as necessary to develop new strategies, goals, and priorities.
- Assist City staff with development of new strategies, objectives, priorities and programs for inclusion in the Consolidation Plan and Action Plan.
- Develop and incorporate a performance measure component as required by HUD regulations.
- Conduct at least 2 public hearings, with additional public hearings and study sessions being conducted with the City Council and City Commissions as needed.
- Prepare draft public hearing notices and other public notices as may be applicable.
- Conduct consultations with private agencies, public agencies and community groups as required.
- Assist City staff with the review of the current Citizen Participation Plan to determine whether any changes are needed in order to meet HUD's current requirements.
- Provide a resource binder to include, at a minimum, a list of data sources, copy of data collected, consultations, records, and other supporting documentations used to develop the Consolidated Plan and Annual Action Plan.
- Provide a resource binder to include, at a minimum, a list of data sources, copy of data collected, consultations, records, and other supporting documentations used to update the Citizen Participation Plan.

2) Analysis of Impediments (update):

- Update the 2010-2015 Analysis of Impediments to Fair Housing Choice (AI) pursuant to current HUD and other Federal regulations.
- Identify impediments and recommend remedies to overcome impediment to fair housing choices.
- Conduct consultations with private agencies, public agencies and community groups as needed.
- Make one presentation to the City of Kingston Common Council as may be needed.

- Provide copy of the approved final document; a copy on CD diskette shall be provided with the final document in Microsoft Office Word format
- Prepare draft public hearing notices and other public notices as may be applicable.
- Provide a resource binder to include at a minimum a list of data sources, backup of data collected, consultation records, correspondence, and other supporting documentation used in developing the AI
 - i) *Citizen Participation and Consultation*: Develop a list of housing and community development stakeholders in the City. Provide meaningful involvement of citizens, community-based organizations, businesses, elected officials, housing and service providers in the planning process. Conduct regular consultation with City staff (see above), as well as meaningful language access to persons with Limited English Proficiency (LEP). The usually-required updated Citizen Participation Plan will **not** be a part of the Scope of Services.
 - ii) *Executive Summary*
 - iii) *Housing Market Analysis and Needs Assessment*: Collect and analyze statistical information that provides an overall picture of the housing needs of the City. At a minimum, the assessment should include the following:
 - Housing supply and demand
 - Housing affordability analysis
 - Cost-burdened households
 - Housing types
 - Housing conditions, including substandard units
 - Disproportionate racial/ethnic group housing needs
 - Specific housing objectives
 - Needs of Public Housing
 - Inventory of local, state and federal assisted housing
 - Barriers to affordable housing
 - Lead based paint hazards
 - iv) *Homeless Needs Assessment*: At a minimum, the assessment should include the following:
 - Inventory of emergency shelters, transitional housing and permanent housing for the homeless
 - Needs of sheltered and unsheltered homeless

- Needs of subpopulations
- Needs of persons threatened with homelessness
- v) *Non-Homeless Special Needs Assessment*: At a minimum, this assessment should include the following:
 - Special Independent Living needs and issues for persons with physical and mental disabilities
 - HIV/AIDs population housing needs
 - Supportive service needs
- vi) *Community Development Needs*: Identify non-housing community development needs, including:
 - Public facilities and infrastructure improvement needs
 - Accessibility needs
 - Historic preservation needs
 - Economic development needs
 - Planning needs
 - Public service needs
 - Other community development needs
- vii) *Housing and Community Development Consolidated Plan*: Based on the data gathered and analyzed from iii) – vi) above, develop a 5-year, Consolidated Plan that brings needs and resources together in a coordinated housing and community development strategy. At a minimum, this Plan should include the following:
 - Establishment of priority needs
 - Obstacles to meeting housing goals and objectives
 - Geographical areas: investigate the need for a targeted area implementation plan or targeted economic development area
 - Alleviation of overcrowding
 - Concentration of racial/ethnic minorities
 - Involuntary displacement
 - Affordable housing strategy
 - Anti-poverty strategy
 - Programs to assist households with incomes below the poverty level
 - Coordination with other programs and agencies
 - Community development priority analysis and strategy
 - Institutional structure

- Housing
 - Public Services
 - Community development
 - Strengths in the institutional structure
 - Gaps in the institutional structure
- Coordination
- Implementation of housing and community development strategy
- viii) Identify Potential Funding Sources: Identify potential state and federal grants and other available funding sources available to the City for housing-related and community development activities. Suggest financial terms for CDBG and HOME projects based on project type or related factors.
- c) Attachments/Other
 - i) Source documentation and data;
 - ii) Interim reports, memorandums, addendums, etc.
 - iii) Public announcement as published (or script, if broadcast);
 - iv) Information packets, surveys, questionnaires, and other materials handed out at public meetings;
 - v) Formalized notes from and/or descriptive narrative of events;
 - vi) Copies of written public comments, summaries of verbal comments, and responses.
- d) Presentation materials for stakeholder meetings, public meetings and hearings.
- e) Any other materials substantially relevant to the Consolidated Plan or its development process.
- f) A Citizen Participation Plan Amendment will **not** be a required deliverable as part of the Scope of Services for this project.
 - b) Major document components related to Scope of Work include:
 - i) *Citizen Participation and Consultation:*
 - ii) *Executive Summary*
 - iii) *Housing Market Analysis and Needs Assessment.*
 - iv) *Homeless Needs Assessment.*
 - v) *Non-Homeless Special Needs Assessment.*
 - vi) *Community Development Needs:*
 - vii) *Housing and Community Development Consolidated Plan:* Based on the data gathered and analyzed from iii) – vi) above, develop a 5-year, Consolidated Plan that brings needs and resources together in a coordinated housing and community development strategy. At a minimum, this Plan should include the following:

viii) Identify Potential Funding Sources:

3) City's Internal CDBG Policies and Procedures Manual

A copy of the City's Internal CDBG Policies and Procedures Manual will be provided to the selected Consultant. The Consultant will review the current manual for compliance with HUD regulations and CDBG program administration.

C. Final HUD Approval

Should HUD not grant Final Approval of the Consolidated Plan, the Consultant must bring the document to an acceptable level within the HUD-designated time frame.

D. Implementation Time Frames

THE FOLLOWING PRELIMINARY SCHEDULE MAY BE ALTERED AT ANY TIME WITHOUT PRIOR NOTIFICATION.

RFP Due	November 20, 2018
Proposers' Interviews (if necessary)	November 26, 2018
Contract Start Date	November 30, 2018
Draft Documents Available for Staff Review	March 18, 2019
Board Vote on Allocations	March 26, 2019
Draft Documents back to Consultant for Final Public Review Preparation	April 3, 2019
Documents ready for Public Review	April 12, 2019
Advertise for 30-day Public Comment Period	April 14, 2019
Public Comment Period	April 15, 2019 – May 14, 2019
CD Advisory Board – Vote on Draft Documents	April 23, 2019
Communication to Council	May 3, 2019
Final Documents from Consultant sent to Mayor, Board, Council	May 21, 2019
CD Committee meeting – Final Documents Approved	May 28, 2019
Full Common Council vote – Consolidated Plan, Annual Action Plan	June 4, 2019
Submit Documents to HUD; close out Consultant Contract	June 5, 2019 – June 30, 2019

E. Staff Responsibilities

The Social Sustainability Staff Team and the Point of Contact (POC) person (a Grant Programs Administrator) will be available on a limited and negotiated basis to coordinate activities with the consultant. At a minimum, staff will be available for bi-weekly meetings with the Consultant to review progress, coordinate activities, and discuss policy issues. City staff will also assist with providing required comments to public comments made. The City will provide for the cost of public notifications for the public review comment period.

The proposal should specifically describe any assumptions with regard to City staff's role.

III. COMPENSATION AND CONTRACT PROCESS

- A. After contract award, progress invoices shall be billed in monthly installments, subject to review and approval by the Director of Office of Economic and Community Development.. City payment terms will be Net 45 Days from receipt of invoice.
- B. The City reserves the right to award directly as a result of the written proposals. The City may or may not opt to conduct oral interviews.***
- C. The selected Contractor shall be expected to sign the City's standard Professional Services Agreement without revision to the City's standard terms prior to commencing Services (see sample attached to this Proposal).**
- D. The City reserves the right to negotiate with any vendor as meets the needs of the City. The City reserves the right to reject any or all proposals, and to waive any irregularities.

IV. PROPOSAL SUBMITTAL REQUIREMENTS

The final scope of services will identify a project schedule, tasks, deliverables, and expected expenditures by task. The scope will also indicate respective responsibilities of the consulting firm and City staff.

All respondents are required to include the following information in the submittal as a minimum. Respondents are to number and name each section as follows:

1. Methods and Approach - Describe your expected or recommended approach and tasks. Describe the anticipated interaction with the City. Provide an outline (i.e., timeline) of your anticipated schedule for completing consultant tasks.
2. Scope of Work Deliverables - Provide your Deliverables for the Scope of Work Considerations listed in this document.
3. Qualifications and Experience - Provide relevant information regarding previous experience related to developing similar plans and services to the ones listed under our Deliverables above:
 - Number of years in the business

- Overview of services offered, qualifications
 - Names and location of similar projects. Three references of such projects, to include:
 - a) Service provided
 - b) Date of service
 - c) Client organization
 - d) Contact name and title, phone, and e-mail address of public agency reference(s) overseeing the planning effort
 - e) ***It is imperative that the awarded Consultant show experience with and proficiency in the web-based eCon Planning Suite format for HUD. In this section of your Proposal and in your three References, clearly express your experience with this.***
 - Samples (preferably three via a web link or pdf files) of work products for similar projects
4. List of Project Personnel - This list should include the identification of the contact person with primary responsibility for this contract, the personnel proposed for this contract, and any supervisory personnel, including partners and/or subconsultants, and their individual areas of responsibility. A résumé for each professional and technical person assigned to the contract, including partners and/or subconsultants, shall be submitted. The résumés shall include at least three references from previous assignments.
 5. Organization Chart/Proposed Project Team - An organization chart containing the names of all key personnel and subconsultants with titles and their specific task assignment for this contract shall be provided in this section.
 6. Availability – Describe the availability of project personnel to participate in this Project in the context of the consultant firm’s other commitments.

As part of your proposal response under “availability”, please indicate your availability for an on-site interview in Kingston, NY the week of November 26, 2018 in the event you are invited for an oral interview round.
 7. Estimated Hours by Task - Provide estimated hours for each proposed or optional task, including the time required for meetings, conference calls, etc.; and the total project cost.
 8. Schedule of Rates and Cost by Task - Provide a schedule of rates and an anticipated cost of each task identified in the Scope of Work Deliverables section; including the preliminary and final reports, and the total project cost.

V. VENDOR STATEMENT:

I have read and understand the specifications and requirements for this bid and I agree to comply with such specifications and requirements. I further agree that the

method of award is acceptable to my company. I also agree to complete PROFESSIONAL SERVICES AGREEMENT with the City of Kingston **without revision** within 30 days of notice of award. If contract is not completed and signed within 30 days, City reserves the right to cancel and award to the next highest rated firm.

FIRM NAME: _____

ADDRESS: _____

PHONE: _____ **EMAIL:** _____

BIDDER'S NAME: _____

SIGNATURE: _____

PRIMARY SERVICE ISSUES CONTACT: _____

PHONE: _____ **EMAIL:** _____

CELL #: _____ **EMERGENCY:** _____

BACKUP: _____

VI. REVIEW AND ASSESSMENT

Professional firms will be evaluated on the following criteria. These criteria will be the basis for review of the written proposals and interview session.

The rating scale shall be from 1 to 5, with 1 being a poor rating, 3 being an average rating, and 5 being an outstanding rating.

WEIGHTING FACTOR	QUALIFICATION	STANDARD
2.0	Scope of Proposal	Does the proposal show an understanding of the project objective, methodology to be used and results that are desired from the project?
2.0	Assigned Personnel	Do the persons who will be working on the project have the necessary skills? Are sufficient people of the requisite skills assigned to the project?
1.0	Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required? Is the project team available to attend meetings as required by the Scope of Work?
1.0	Motivation	Is the firm interested and are they capable of doing the work in the required time frame?
2.0	Cost and Work Hours	Do the proposed cost and work hours compare favorably with the Project Manager's estimate? Are the work hours presented reasonable for the effort required in each project task or phase?
2.0	Firm Capability	Does the firm have the support capabilities the assigned personnel require? Has the firm done previous projects of this type and scope?

Reference Evaluation (Top Ranked Firm)

The Project Manager will check references using the following criteria. The evaluation rankings will be labeled Satisfactory/Unsatisfactory.

QUALIFICATION	STANDARD
Overall Performance	Would you hire this Professional again? Did they show the skills required by this project?
Timetable	Was the original Scope of Work completed within the specified time? Were interim deadlines met in a timely manner?
Completeness	Was the Professional responsive to client needs; did the Professional anticipate problems? Were problems solved quickly and effectively?
Budget	Was the original Scope of Work completed within the project budget?
Job Knowledge	If a study, did it meet the Scope of Work?

**EXHIBIT
FEDERAL TERMS AND CONDITIONS**

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

- (1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. §5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

- A. Where the Purchaser is not a State but a local government and is the Federal Recipient or a subgrantee of the Federal Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the Federal Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the

Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the Federal Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the Federal Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- D. Federal Administrator does not require the inclusion of these requirements in subcontracts.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
I State Grantees						
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless ¹ non-competitive award		Yes, if non-competitive award or if funded thru ²	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
II Non State Grantees						
a. Contracts below SAT (\$100,000)	Yes ³	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$100,000/Capital Projects	Yes ³		Yes	Yes	Yes	Yes

Sources of Authority: ¹ 49 USC 5325 (a) ² 49 CFR 633.17 ³ 18 CFR 18.36 (i)

4. **FEDERAL CHANGES**

Contractor shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and Federal Administrator, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

5. **CIVIL RIGHTS REQUIREMENTS**

The following requirements apply to the underlying contract:

- (1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements Federal Administrator may issue.
- (2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:
 - (a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements Federal Administrator may issue.
 - (b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against

present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements Federal Administrator may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements Federal Administrator may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by Federal Administrator, modified only if necessary to identify the affected parties.

6. **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 9.9%. A separate contract goal **has not** been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this Federally- assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as **City of Kingston** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the **City of Kingston**. In addition, **the contractor may not hold retainage from its subcontractors**.
- e. The contractor must promptly notify **City of Kingston** whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of **City of Kingston**.

7. **INCORPORATION OF FEDERAL TERMS**

Incorporation of Federal Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all Federally mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Kingston requests which would cause City of Kingston to be in violation of the Federal terms and conditions.

8. **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION** **(NONPROCUREMENT) Background and Applicability**

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. (49 CFR 29.300)

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Clause Language

The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As

such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City of Kingston. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City of Kingston, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

12. CITY OF KINGSTON BID PROTEST PROCEDURES

The City of Kingston has a protest procedure, covering any phase of solicitation or award, including but not limited to specification or award. The protest procedures are available by accessing https://kingston-ny.gov/filestorage/8463/8511/8654/14878/2018_Procurement_Policy_and_Procedures_Manual.pdf or upon written request to Purchasing, City of Kingston, 420 Broadway, Kingston, NY 12401. You may also request a copy of the procedures by emailing bwoltman@kingston-ny.gov or calling 845-334-3943.

13. APPENDIX A – TEMPLATE AGREEMENT FOR CONSULTANT SERVICES