

**ECONOMIC TRANSFORMATION PROGRAM (2014)**

**Capital Grant Program**

**July 2014**

**New York State Urban Development Corporation d/b/a  
Empire State Development  
("ESD" or the "Corporation")**

**GUIDELINES**

## **Economic Transformation Program Guidelines**

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## Section 1 – Program Description and Goals

The 2014-15 State Budget enacted the Economic Transformation Program (2014) and gave the Corporation responsibility for implementing a \$32 million program for the purpose of promoting economic development initiatives in communities affected by closure of specific state facilities. In July of 2013, the Department of Corrections and Community Services (DOCCS) announced four closures (see list of facilities below) with actual closure of the facilities expected July 2014. 2014 program funding will be available within the Economic Transformation Areas of each facility, \$8 million per Area, after the facilities have been closed.

- Butler Correctional Facility, Towns of Butler and Wolcott, County of Wayne
- Chateaugay Correctional Facility, Town of Chateaugay, County of Franklin
- Monterey Shock Incarceration Correctional Facility, Town of Orange, County of Schuyler
- Mount McGregor Correctional Facility, Towns of Wilton and Moreau, County of Saratoga

Applicants must always disclose whether they are pursuing or intend to pursue multiple ESD funding sources, including loans, grants and tax incentives.

Awards will be made to qualified applicants based on the eligibility and evaluation criteria established in Section 2 of these Guidelines.

Strong emphasis will be placed on projects that leverage private sector investments, create and retain jobs and support initiatives that help transform the economies of affected communities.

Strong emphasis will also be placed on project feasibility, the likelihood of success and readiness to proceed with the project.

## Section 2 – Eligibility Criteria and Uses

Program funding is limited to a “capital purpose” and preference will be given to projects involving economic development initiatives intended to create or retain jobs, prevent, reduce or eliminate unemployment or underemployment, or increase business activity in an economic transformation area.

An applicant must be located, or plan to be located, within an Economic Transformation Area.

Businesses operating predominantly as retail, real estate development and professional service businesses will be excluded unless an applicant will be located at the site of a closed facility pursuant to an adaptive reuse plan; provided, however, a tourism destination project may be considered for funding. When determining whether an applicant is operating predominantly in a targeted industry, the nature of the business activity at the location for the proposed project will be examined.

ESD generally seeks to provide no more than twenty percent (20%) of the financing for any particular project and generally requires ten percent (10%) equity in all Projects.

Economic Transformation Program funds may be used for:

1. New construction, renovation or leasehold improvements;
2. Construction or renovation of basic infrastructure systems at closed facilities including drainage systems, sewer systems, access roads, sidewalks, docks, parking, wharves, water supply systems and site clearance, preparation, improvements and demolition; and
3. The acquisition of land, buildings, machinery and equipment.
4. Soft costs up to twenty-five (25%) of total project costs; and
5. Planning and feasibility studies related to a specific capital project.

The following types of expenses may be included in budgets presented to ESD for consideration as part of an application for Project funding but such expenses shall not be eligible for payment using Economic Transformation Funds:

- Developer fees;
- Training; and
- Residential development, although program funds may be used for the commercial component of a mixed-use project.

### Section 3 – Evaluation Criteria

ESD shall generally apply the criteria noted below when awarding funding for applications received through the Consolidated Funding Application. In addition to the criteria noted above and below, ESD shall have the discretion to consider additional factors in determining the relative merits of projects.

#### Regional Economic Growth Impact

- the overall economic impact that the project identified in the application will have on a region including, but not limited to, the number and impact of any direct or indirect jobs that will be created
- the number of at-risk jobs that will be retained
- the amount of capital investment and the level of increased economic activity from the proposed capital investment
- the likelihood that the project identified in the application would be located outside of NYS or would not occur in NYS but for the availability of state or local incentives

#### Public/Stakeholders

- whether the project has demonstrated support from local government and private sector leaders in the locality and the region where the project will be located
- whether the project will have a significant regional impact or is likely to increase the subject community's economic and social viability and vitality
- the degree of economic distress in the area where the Applicant will locate the project identified in its application, including downtown revitalization and brownfield areas

#### Implementation

- the degree of project readiness and likelihood of completion, including, where applicable for real estate development projects, if there are identified tenants for a completed project
- the degree of the applicant's financial viability and strength of financials/operating history/ESD Credit Score

#### Leveraged Resources

- the amount of private financing leveraged
- the amount of public financing leveraged

#### Performance Measures

- the estimated return on investment that the project identified in the application will provide to New York State
- for downtown areas, whether or not the Project concerns the preservation of the architectural character of a building or neighborhood and, where applicable, draws new businesses to the area
- the degree to which the project supports the Principals of Smart Growth, energy-efficiency (including but not limited to, the reduction of greenhouse gas and emissions and the Leadership in Energy and Environmental Design (LEED) green building rating system for the project identified in its application), and sustainable development
- the degree to which the project identified in the application supports NYS Minority and Women Business Enterprises

## **Section 4 – Application and Approval Process**

Applicants must contact the ESD Regional Office to apply for assistance through this Program. Applications may be recommended by Regional Councils and may be processed and reviewed for consistency with the strategic plans and priorities of the region.

## **Section 5 - Definitions**

APPLICANT shall mean a for-profit business entity, municipality, non-profit organization, local development corporation, or industrial development agency.

CAPITAL PURPOSE shall mean the acquisition, construction, demolition, replacement, and repair or renovation of a fixed asset or assets, and may include the planning or design of a fixed asset or assets, including the preparation and review of plans and specifications.

CORPORATION shall mean the New York State Urban Development Corporation doing business as Empire State Development.

CLOSED FACILITY shall mean (a) a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been closed pursuant to the New York State Corrections Law, Article 4, sections 79-A which was announced for closure by DOCCS on July 26, 2013. A list of closed facilities is listed here:

- Butler Correctional Facility, Towns of Butler and Wolcott, County of Wayne
- Chateaugay Correctional Facility, Town of Chateaugay, County of Franklin
- Monterey Shock Incarceration Correctional Facility, Town of Orange, County of Schuyler
- Mount McGregor Correctional Facility, Towns of Wilton and Moreau, County of Saratoga

ECONOMIC DEVELOPMENT INITIATIVES shall mean eligible uses intended to create or retain jobs, prevent, reduce or eliminate unemployment or underemployment, or increase business activity in an Economic Transformation Area.

ECONOMIC TRANSFORMATION AREA shall mean an area consistent with those areas defined by the commissioner of economic development pursuant to Article 18 of the economic development law as follows:

- An area within a fifteen mile radius of the following facilities: Butler Correctional Facility, Towns of Butler and Wolcott, County of Wayne; and Chateaugay Correctional Facility, Town of Chateaugay, County of Franklin.
- An area within a ten mile radius of the following facilities: Monterey Shock Incarceration Correctional Facility, Town of Orange, County of Schuyler; and Mount McGregor Correctional Facility, Towns of Wilton and Moreau, County of Saratoga.

MUNICIPALITY shall mean a municipal subdivision that is a county, city, town, or village.

NET NEW JOBS shall mean jobs created in this state that: (1) are new to the state; (2) have not been transferred from employment with another business located in this state including from a related person in this state; (3) are either full-time wage-paying jobs or equivalent to a full-time wage-paying job requiring at least thirty-five hours per week; and (4) are filled for more than six months during the year for which credits are being granted.

REUSE PLAN shall mean a plan for the use of some or all of the property at a closed facility that may include the demolition, deconstruction, rehabilitation, reconstruction or reuse of a building, or group of buildings that furthers the goal of revitalizing the property at a closed facility that will result in economic development benefits.

SIGNIFICANT CAPITAL INVESTMENT shall mean generally the addition of a new facility. It may also be evidenced by: (1) a new capital investment whose basis for federal income tax purposes at the time of completion exceeds the sum of the applicant's total New York State capital investments over the past three tax years; or (2) a major expansion or upgrade of an existing facility resulting in additional production capacity or increased energy or production efficiency increasing the applicant's profitability, long-term viability, and commitment to operations in New York State.

SMART GROWTH shall mean the sensible, planned, efficient growth that integrates economic development and job creation with community quality-of-life by preserving and enhancing the built and natural environments. Smart growth encourages growth in developed areas with existing infrastructure to sustain it, particularly municipal centers, downtowns, urban cores, historic districts and older first-tier suburbs.

REGION shall mean the regions of the State established pursuant to section 230 of the Economic Development Law.

SOFT COSTS shall mean costs related to those items in a project that are necessary to prepare and complete the non-construction needs of the project. Soft costs include such items as architecture, design, engineering, permits, inspections, consultants, environmental studies, and regulatory demands needing approval before construction begins. Soft costs do not include construction, telecommunications, furnishings, fixed equipment, and expenditures for any other permanent components of the project.

TARGETED INDUSTRIES shall mean high-tech, bio-tech, clean-tech, manufacturing and other strategic industries identified in the Regional Councils' strategic plan.

TOURISM DESTINATION PROJECT shall mean a project that significantly contributes to the development of a recreational, cultural or historic location or facility that will attract a significant number of visitors from outside the region in which the project is located.

## Section 6 – Terms and Conditions

An applicant will be required to contribute a minimum of ten percent (10%) of the total project cost in the form of equity contributed after the Applicant's acceptance of ESD's incentive offer. Equity means cash injected into the project by the applicant or by investors, and should be auditable through the applicant's financial statements or accounts, if so requested by ESD. Equity cannot be borrowed money secured by the assets in the project or grants from a government source. Equity contributions must be "firmly committed" to support the proposed project. "Firmly committed" shall mean there must be a signed, written agreement to provide the resources and services. The written agreement may be contingent upon an applicant's receiving an Economic Transformation Program award.

Funding awards will be documented by an Incentive Proposal outlining the terms of the proposed assistance, which is conditioned upon approval of the ESD Directors and compliance with applicable laws and regulations.

A 1% commitment fee based on the grant amount awarded (not to exceed \$10,000 and not to be less than \$100) will be assessed to all awardees. The commitment fee will be due when the applicant executes documents required for processing the grant. The applicant will be obligated to pay for out-of-pocket expenses incurred by ESD in connection with the project, including, but not limited to, expenses related to attorney fees, appraisals, surveys, title insurance, credit searches, filing fees, public hearing expenses and other requirements deemed appropriate by ESD.

The Corporation reserves the right to offer project awards to sponsors in different amounts and under different terms than requested. Projects generally are presented to the Directors once all project expenditures have been undertaken and reimbursement is sought. All required public approvals must be in place prior to the start of construction and Directors' approval, including State Environmental Quality Review and consultation with the State Historic Preservation Office, if applicable. After approval by the Board of Directors, a public hearing is scheduled and the Directors must reconsider the matter if any negative testimony is received at the public hearing. (Generally, this second meeting occurs the month after the Board of Directors' initial approval). Approval of the Public Authorities Control Board, the Comptroller of the State of New York and the Attorney General of the State of New York may also be required. Once the necessary approvals are obtained, the Corporation may issue a commitment letter that is conditioned only upon the availability of funds from the New York State Division of Budget.

The Corporation reserves the right to review and reconsider project and property selections in the event of material changes in the project plans or circumstances. Expenditures incurred prior to the application are not eligible for reimbursement by Economic Transformation Program funds.

Applications shall be reviewed by ESD's Office of Contractor and Supplier Diversity, which shall, in consultation with the applicant and/or proposed recipient of Economic Transformation Program assistance and any other relevant interested parties, develop appropriate business and participation goals for minorities and women, in compliance with applicable law (including Section 2879 of the Public Authorities Law, Article 15-A of the Executive Law and Section 6254 (11) of the Unconsolidated Laws) and the policy of The Corporation, for participation by minority group members and women. Such goals shall typically be included in the Incentive Proposal. Compliance with laws and the policy of the Corporation prohibiting discrimination in employment on the basis of age, race, creed, color, national origin, gender, sexual orientation, disability or marital status shall also be required.

Please note that ESD's agency-wide Minority and Woman-Owned Business (M/WBE) utilization goal is 23%. Each project will be assigned an individual contract-specific goal, which may be higher or lower than



23%. Funding recipients shall be required to use good faith efforts to achieve the prescribed M/WBE goals assigned to this project. Funding Recipients must maintain such records and take such actions as may be necessary to demonstrate compliance.

*Not-for-profit Corporations* – Prior to ESD Directors' approval and execution of a contract with ESD, a not-for-profit corporation must be registered and up-to-date with filings with the New York State Office of the Attorney General's Charities Bureau and the New York State Office of the State Comptroller's VendRep System and must be prequalified in the New York State Grants Gateway.

It is expected the project will proceed in the time frame set forth by the applicant. If the implementation of a project fails to proceed as planned and is delayed for a significant period of time and there is, in the exclusive judgment of the Corporation, doubt as to its viability, the Corporation reserves the right to cancel its funding commitment to such project.

The Corporation encourages the environmentally sustainable practice of recycling construction/demolition (C&D) debris rather than disposition in a landfill. Where an Economic Transformation Program award has been made for the adaptive reuse of a closed facility involving deconstruction/demolition of the facility C&D recycling is encouraged, but not required.

## **Section 7 – Regional Offices**

### **Capital District**

Hedley Park Place  
433 River Street, Suite 1003  
Troy, New York 12180  
(518) 270-1130  
(518) 270-1141 Fax

### **Finger Lakes Region**

400 Andrews Street, Suite 300  
Rochester, New York 14604  
(585) 399-7052  
(585) 423-7570 Fax

### **North Country Region**

Dulles State Office Building  
317 Washington Street, 2<sup>nd</sup> floor  
Watertown, New York 13601  
(315) 785-7907  
(315) 785-7935 Fax

401 West Bay Plaza  
Plattsburgh, New York 12901  
(518) 561-5642  
(518) 561-8831 Fax

### **Southern Tier Region**

State Office Building  
44 Hawley Street Room 1508  
Binghamton, New York 13901  
(607) 721-8605  
(607) 721-8613 Fax