ECONOMIC TRANSFORMATION PROGRAM

Capital Grant Program

August 2012

Empire State Development Corporation (THE CORPORATION)

GUIDELINES

Economic Transformation Program Guidelines
Table of Contents

Section 1: Program Description and Goals

Section 2: Eligibility Criteria and Uses

Section 3: Evaluation Criteria

Section 4: Application and Approval Process

Section 5: Definitions

Section 6: Terms and Conditions

Section 7: Regions and ESD Regional Offices

Section 1 – Program Description and Goals

The 2011-12 State Budget enacted the Economic Transformation Program and gave the Corporation responsibility for implementing a $50 million program for the purpose of promoting economic development initiatives in the communities affected by closure of state facilities. The Office of Children and Family Services (OCFS) has announced four closures and the Department of Corrections and Community Services (DOCCS) has announced seven additional closures (see list of facilities below).

Arthur Kill Correctional Facility (DOCCS)	NYC (Richmond/Staten Island)
Buffalo Correctional Facility (DOCCS)	Alden (Erie)
Camp Georgetown (DOCCS)	Georgetown (Madison)
Fulton Correctional Facility (DOCCS)	NYC (Bronx)
Mid-Orange Correctional Facility (DOCCS)	Warwick (Orange)
Oneida Correctional Facility (DOCCS)	Rome (Oneida)
Summit Shock Incarceration Correctional Facility (DOCCS)	Summit (Schoharie)
Allen Residential Center (OCFS)	South Kortright (Delaware)
Harriet Tubman Residential Center (OCFS)	Auburn (Cayuga)
Industry Secure Facility (OCFS)	Rush (Monroe)
Tryon Girls Center (OCFS)	Johnstown (Fulton)

All projects awarded funds from the Economic Transformation Program require no less than 10 percent of the award amount in matching contributions. Cash and in-kind contributions are allowed. ESD generally seeks to provide no more than 20% of the financing for any particular project. 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.

Priority will be given to applicants operating predominantly in a targeted industry that create significant new jobs in New York State and make significant capital investment. 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.

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 or leasing of land, buildings, machinery and equipment.

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/ESDC 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 will 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 selected by the governor of the state of New York for closure after April first, two thousand eleven but no later than March thirty-first, two thousand twelve; or (b) a facility operated by the office of children and family services under article nineteen-G of the executive law that is closed pursuant to authority granted to such office in a chapter of the laws of two thousand eleven; and (c) which has been closed provided that the commissioner of correctional services or the commissioner of the office of children and family services has notified the commissioner of economic development of such closure. A list of closed facilities is listed here:

Arthur Kill Correctional Facility (DOCCS)	NYC (Richmond/Staten Island)
Buffalo Correctional Facility (DOCCS)	Alden (Erie)
Camp Georgetown (DOCCS)	Georgetown (Madison)
Fulton Correctional Facility (DOCCS)	NYC (Bronx)
Mid-Orange Correctional Facility (DOCCS)	Warwick (Orange)
Oneida Correctional Facility (DOCCS)	Rome (Oneida)
Summit Shock Incarceration Correctional Facility (DOCCS)	Summit (Schoharie)
Allen Residential Center (OCFS)	South Kortright (Delaware)
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Industry Secure Facility (OCFS)	Rush (Monroe)
Tryon Girls Center (OCFS)	Johnstown (Fulton)

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.

Section 5 – Definitions cont.

ECONOMIC TRANSFORMATION AREA shall mean an area defined by the commissioner of economic development pursuant to Article 18 of the economic development law as follows.
An area within a five mile radius of the following facilities: Buffalo Correctional Facility in Alden, New York; Allen Residential Center in South Kortright, New York, Mid-Orange Correctional Facility in Warwick, New York, and Harriet Tubman Residential Center in Auburn, New York;

An area within a ten mile radius of the following facilities: Camp Georgetown, Georgetown, New York and Industry Secure Facility in Rush, New York;

An area within a fifteen mile radius of the following facilities: Oneida Correctional Facility in Rome, New York, Summit Shock Incarceration Facility in Summit, New York, and Tryon Girls Center in Johnstown, New York;

An area limited to the site of the following facilities: Fulton Correctional Facility in Bronx, New York and Arthur Kill Correctional Facility in Staten Island, New York.

MATCH shall mean cash (which is encouraged) including funds from federal, state (other than Economic Transformation Program funds) and local government sources, and funds from private contributions. Match amounts must be "firmly committed" and will 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 receiving an Economic Transformation Program award.

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.

Section 5 – Definitions cont.

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 that is granted an award or awards shall provide a matching contribution of no less than ten percent of the aggregated Economic Transformation Program award amount. Such matching contribution may be cash or the value of in-kind services, contributions or administrative costs dedicated to this project, including funds from federal, state (other than Economic Transformation Program funds) and local government sources and funds from private contributions. Match amounts 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 receiving an Economic Transformation Program award.

Final funding awards will be subject to approval by The Corporation Board of Directors following project selection and the anticipated availability of funds, a public hearing; and approval by the Public Authorities Control Board (PACB). 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 upon Board approval.

The Corporation reserves the right to offer project awards to sponsors in different amounts and under different terms than requested. Awards will be documented in the form of an incentive offer letter outlining the terms of the proposed assistance, which is conditioned upon approval of the Corporation. Board of Directors. Projects generally are presented to the Board of Directors once all project expenditures have been undertaken, the Commitment Fee has been paid and reimbursement is sought. All required public approvals must be in place prior to the start of construction and Board of Directors' approval, including State Environmental Quality Review (SEQR) and consultation with the State Historic Preservation Office, if applicable. After approval by the Board of Directors, a public hearing is scheduled and the Board of 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). As applicable approval of the Public Authorities Control Board (PACB), Comptroller of the State of New York and the Attorney General of the State of New York may 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 the Affirmative Action Unit of The Corporation, which shall, in consultation with the applicant and/or proposed recipient of Economic Transformation Program assistance and any other relevant interested parties, develop appropriate goals, 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. 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 be required.

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

Central New York Region
620 Erie Boulevard West Suite 112
Syracuse, New York 13204
(315) 425-9110
(315) 425-7156 Fax

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

Long Island Region
150 Motor Parkway
Hauppauge, New York 11788
(631) 435-0717
(631) 435-3399 Fax

Mid-Hudson Region
33 Airport Center Drive Suite 201
New Windsor, New York 12553
(845) 567-4882
(845) 567-6085 Fax

Mohawk Valley Region
207 Genesee Street 16th Floor
Utica, New York 13501
(315) 793-2366
(315) 793-2705 Fax

New York City Region
633 3rd Avenue 36th Floor
New York, New York 10017
(212) 803-3130
(212) 803-3131 Fax

North Country Region
Dulles State Office Building
317 Washington Street 2nd Floor
Watertown, New York 13601
(315) 785-7932
(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

Western New York Region
95 Perry Street
Suite 500
Buffalo, New York 14203-3030
(716) 846-8200
(716) 846-8260 Fax