

**67308**

**DATE:** January 23, 2019  
**TO:** Board of Acquisition & Contract  
**FROM:** Mae Carpenter, Commissioner  
Department of Senior Programs and Services  
**RE:** Request for authority for the County of Westchester to:

- a) enter into an Agreement with the New York State Executive Department Office for the Aging to accept a grant in the sum of \$2,116,965 to provide nutrition programs for the elderly under Titles IIIC-1, IIIC-2, and the Nutritional Services Incentive Program of the Older Americans Act for the program period January 1, 2019 through December 31, 2019; and
- b) enter into Agreements with the two (2) entities set forth in the attached schedule, to operate nutrition programs for the elderly under Titles IIIC-1, IIIC-2, and the Nutritional Services Incentive Program of the Older Americans Act for an aggregate amount not to exceed \$53,422, for the program period January 1, 2019 through December 31, 2019.

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The County of Westchester ("County"), acting by and through the Department of Senior Programs and Services (the "Department"), seeks authority from your Honorable Board to enter into an Agreement with the New York State Office for the Aging ("NYSOFA") to accept a grant in the sum of \$2,116,965 to provide various nutrition programs (the "Programs") for seniors under Titles IIIC-1, IIIC-2 and the Nutritional Services Incentive Program ("NSIP") of the Older Americans Act, for the program period January 1, 2019 through December 31, 2019.

In addition, authority is also sought for the County to enter into agreements with the two (2) entities (also the "Contractors") set forth in the attached Schedule "A", for the purpose of administering the aforementioned nutrition programs for the elderly in a total aggregate amount not-to-exceed \$53,422 in the individual amounts also set forth in Schedule "A". These agreements will commence on January 1, 2019 and continue through December 31, 2019. The Contractors are also required to contribute an amount not to exceed \$13,140 in the individual amounts set forth in Schedule "A" to the III-C Programs.

Of the remaining \$2,063,543 in federal funds, \$1,494,834 will be used to enter into inter-municipal agreements (IMAs) as indicated in the attached Schedule "B", and the remaining \$568,709 will be used directly by the Department to provide direct services and area agency administration.

It should be noted that since Local Law 6 of 2012 has now been implemented, Board of A&C approval for some IMAs is no longer required. However, the previous Board Act granting the County authority to enter into the IMAs for these purposes expired. Therefore, the Department will be submitting legislation to the Westchester County Board of Legislators seeking a new approved Board Act before the County enters into the IMAs specified in Schedule "B".

With regard to the distribution of NSIP funding, the agreements with the Contractors will provide that the Department will be authorized to distribute such funding 1) contingent upon its receiving further State approval; and 2) by providing the Contractors with written confirmation that the State has authorized the distribution of such funds, without the need for the subcontractor to execute a supplemental agreement.

This Agreement will serve a public purpose by providing needed nutrition programs to elderly residents of the County, thus preventing malnutrition and improving their overall health.

The goals and objectives of the nutrition programs under Titles IIIC-1, IIIC-2 and NSIP of the Older Americans Act are to service seniors who are 60 years of age or older looking to satisfy the basic need for food, nutrition and socialization. The home delivered meals program specifically aims to maintain or improve the well being of those seniors who are at increased nutritional risk.

The goals and objectives are in the best interests of the County in terms of public health by providing needed nutrition programs to elderly residents of the County who are most vulnerable to suffering from malnutrition.

The goals and objectives will be tracked, monitored and evaluated by the Department's Nutrition, Health and Wellness Unit, to ensure compliance with Federal, State and County Regulations. On-site monitoring, subcontractor monthly report reviews and contract meal performance management will be completed by assigned nutrition staff. On-site reviews will be conducted bi-annually by nutrition staff and annually by the State Office for the Aging.

With regard to the distribution of NSIP funding, the agreements with the Contractors will provide that the Department will be authorized to distribute such funding 1) contingent upon its receiving further State approval; and 2) by providing the Contractors with written confirmation that the State has authorized the distribution of such funds, without the need for the Contractors to execute a supplemental agreement. This practice was approved by your Honorable Board in 2010 to avoid the administrative difficulties involved in distributing NSIP funds prior to the State-imposed deadline.

The grant agreement with NYSOFA does not constitute procurement. The exercise of the County's option under each of the seventeen (17) Agreements is subject to the applicable Federal Common Grant Rules. Under those rules, the exercise of a contract option qualifies as a procurement action, which can necessitate a price analysis that might include, for example, consideration of other prices for those services that can be obtained in the open market.

However, the Department previously determined that because of the nature and extent of the services being provided by each Contractor, the services provided under each Agreement are only available from those single sources. Accordingly, the Department procured each agreement on a non-competitive basis pursuant to the regulations then contained 45 CFR 92.36(d)(4). The Department has determined that, given the nature and extent of the services, the services being provided by each Contractor under each Agreement are still only available from those single sources. Therefore, it is not possible for the Department, for example, to inquire as to prices for these services in the open market as part of its price analysis. Rather, the Department has reviewed the terms of each option and determined that the prices contained in the options are reasonable based upon the services being provided.

I certify that my department, a.) has copies of, or access to, all applicable laws, rules, regulations, grant applications, and grant agreements (including any master grant agreement), as well as any guidance or instructions received from the agency making the grant (the "Grant Terms"), b.) has reviewed the Grant Terms, c.) is aware of and understands all of the Grant Terms, and d.) can and will comply with all of the Grant Terms.

Accordingly, I most respectfully recommend adoption of the attached proposed resolution.

## RESOLUTION

Upon communication from the Commissioner of the Westchester County Department of Senior Programs and Services:

**RESOLVED**, that the County of Westchester ("County") is hereby authorized to enter into an agreement with New York State Office for the Aging (NYSOFA) to accept a grant in the sum of \$2,116,965 to provide various nutrition programs (the "Programs") for the elderly pursuant to Titles IIIC-1, IIIC-2, and the Nutritional Services Incentive Program ("NSIP") of the Older Americans Act for the program period January 1, 2019 through December 31, 2019; and be it further

**RESOLVED**, that the County is hereby authorized to enter into agreements (the "Agreements") with the two (2) entities (also the "Contractors") listed in the attached Schedule "A" to operate nutrition programs for the elderly under Titles IIIC-1, IIIC-2, and NSIP of the Older Americans Act in the individual amounts also set forth in Schedule "A", for a total aggregate amount not-to-exceed \$53,422 for the program period commencing on January 1, 2019 through December 31, 2019; and be it further

**RESOLVED**, that the Contractors are required to contribute an aggregate total not-to-exceed \$13,140 in the individual amounts set forth in Schedule "A" to the III-C Programs; and be it further

**RESOLVED**, that with regard to the distribution of NSIP funding, the Agreements with the Contractors shall provide that the Department will be authorized to distribute such funding 1) contingent upon its receiving State approval; and 2) by providing the Contractors with written confirmation that the State has authorized the distribution of such funds, without the need for the subcontractor to execute a supplemental agreement; and be it further

**RESOLVED**, that the Agreements with the Contractors are subject to County Appropriations; and be it further

**RESOLVED**, that the Agreements with the Contractors are also subject to the further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of the Agreements. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate the Agreement with each Contractor or renegotiate the amount and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractors, then the Contractors shall have the right to terminate their respective Agreement upon reasonable prior written notice; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee be, and hereby is, authorized to take such actions and execute such documents as may be necessary and appropriate to effectuate the purposes hereof.

Account to be:

	Fund	Dept.	Major Program Program & Phase , Unit	Object/Sub Object	Trust Account	Dollars
Credited	263	85	941U	9853	T 941	\$1,152,299
Credited	263	85	942U	9853	T 942	\$587,619
Credited	263	85	939T	9853	T 939	\$221,303
Credited	263	85	939T	9853	T 939	\$155,744
Charged	263	85	941U	4380	T 941	\$28,349
Charged	263	85	942U	4380	T 942	\$11,067
Charged	263	85	939T	4380	T 939	\$9,326
Charged	263	85	939T	4380	T 939	\$4,680
Charged	263	85	941U+ 942U	VARIOUS	T941&T942	\$1,700,502
	263	85	939T	4380	T939	\$363,041

Budget Funding Year(s): Unit 941U & 942U - 2019 Start Date 1/1/19 End Date 12/31/19

(must match resolution)

Unit 939T 2018 - 2019 Start Date 10/1/18 End Date 9/30/19

Funding Source

Tax Dollars \$ 0

State Aid \$ 0

\$2,116,965  
(must match resolution)

Federal Aid \$ 2,116,965

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## SCHEDULE "A"

	NOT TO EXCEED FEDERAL FUNDS		NOT TO EXCEED FEDERAL FUNDS		CONTRACTOR MATCH		NET	
	<u>IIIC-1</u>	<u>IIIC-1 NSIP</u>	<u>IIIC-2</u>	<u>IIIC-2 NSIP</u>	<u>IIIC-1</u>	<u>IIIC-2</u>	<u>IIIC-1</u>	<u>IIIC-2</u>
Not for Profit Organizations: Westchester Jewish Community Services	\$10,330	\$3,398	\$11,067	\$4,680	\$3,444	\$3,689	\$17,172	\$19,436
YWCA Yonkers	\$18,019	\$5,928	\$0	\$0	\$6,007	\$0	\$29,954	\$0
<b>TOTAL</b>	<b>\$28,349</b>	<b>\$9,326</b>	<b>\$11,067</b>	<b>\$4,680</b>	<b>\$9,451</b>	<b>\$3,689</b>	<b>\$47,126</b>	<b>\$19,436</b>

APPROVED BOARD OF ACQUISITION & CONTRACT - 02/14/2019 - LISA MRIJAJ, SECRETARY

## SCHEDULE "B"

MUNICIPALITY	NOT TO EXCEED FEDERAL FUNDS		NOT TO EXCEED FEDERAL FUNDS		CONTRACTOR MATCH		NET	
	<u>IIIC-1 NSIP</u>		<u>IIIC-2</u>	<u>IIIC-2 NSIP</u>	<u>IIIC-1</u>	<u>IIIC-2</u>	<u>IIIC-1</u>	<u>IIIC-2</u>
	<u>IIIC-1</u>							
Cortlandt	\$10,552	\$3,471	\$23,240	\$9,827	\$3,518	\$7,747	\$17,541	\$40,814
Eastchester	\$51,424	\$16,913	\$21,152	\$8,945	\$17,142	\$7,051	\$85,479	\$37,148
Greenburgh	\$76,521	\$14,923	\$42,148	\$16,766	\$23,526	\$13,216	\$114,970	\$72,130
Mamaroneck	\$17,608	\$5,791	\$42,032	\$17,775	\$5,870	\$14,011	\$29,269	\$73,818
Mount Kisco	\$35,927	\$9,368	\$25,606	\$10,406	\$9,494	\$8,202	\$54,789	\$44,214
Mount Pleasant	\$25,081	\$8,250	\$14,659	\$6,200	\$8,361	\$4,887	\$41,692	\$25,746
Mount Vernon	\$71,892	\$21,689	\$55,093	\$22,240	\$21,983	\$17,531	\$115,564	\$94,864
New Rochelle	\$66,529	\$21,882	\$0	\$0	\$22,177	\$0	\$110,588	\$0
Ossining	\$35,396	\$11,642	\$20,041	\$8,475	\$11,798	\$6,681	\$58,836	\$35,197
Peekskill	\$58,469	\$16,946	\$15,623	\$5,973	\$17,175	\$4,708	\$92,590	\$26,304
Port Chester	\$60,113	\$19,771	\$6,403	\$2,708	\$20,038	\$2,135	\$99,922	\$11,246
Somers	\$15,747	\$5,180	\$13,449	\$5,688	\$5,249	\$4,483	\$26,176	\$23,620
White Plains	\$35,200	\$11,578	\$0	\$0	\$11,734	\$0	\$58,512	\$0
Yonkers	\$175,394	\$37,084	\$37,480	\$15,849	\$58,465	\$12,494	\$270,943	\$65,823
Yorktown	\$29,715	\$7,489	\$49,299	\$20,212	\$7,590	\$15,933	\$44,794	\$85,444
<b>TOTAL</b>	<b>\$765,568</b>	<b>\$211,977</b>	<b>\$366,225</b>	<b>\$151,064</b>	<b>\$244,120</b>	<b>\$119,079</b>	<b>\$1,221,665</b>	<b>\$636,368</b>

APPROVED BOARD OF ACCOUNTS & CONTRACT ADMINISTRATION - 12/15/2019 - 155 MINUTES SECRETARY