

73793

DATE: January 07, 2020

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 \$2,088,248 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, 2020 through December 31, 2020; 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 \$52,482, for the program period January 1, 2020 through December 31, 2020.

The County of Westchester, 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 \$2,088,248 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, 2020 through December 31, 2020.

In addition, authority is also sought 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 \$52,482 in the individual amounts also set forth in Schedule "A". These agreements will commence on January 1, 2020 and continue through December 31, 2020. The Contractors are also required to contribute an amount not to exceed \$13,859 in the individual amounts set forth in Schedule "A" to the III-C Programs.

Of the remaining \$2,035,766 in federal funds, \$1,487,111 will be used to enter into inter-municipal agreements (IMAs) as indicated in the attached Schedule "B", and the remaining \$548,655 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 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 listed 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 \$2,088,248 to provide various nutrition programs (the "Programs") for the elderly pursuant to Titles III-C-1, III-C-2, and the Nutritional Services Incentive Program ("NSIP") of the Older Americans Act for the program period January 1, 2020 through December 31, 2020; 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 III-C-1, III-C-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 \$52,482 for the program period commencing on January 1, 2020 through December 31, 2020; 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	941V	9853	T 941	\$1,169,957
Credited	263	85	942V	9853	T 942	\$605,116
Credited	263	85	939U	9853	T 939	\$196,006
Credited	263	85	939U	9853	T 939	\$117,169
Charged	263	85	941V	4380	T 941	\$28,349
Charged	263	85	942V	4380	T 942	\$13,223
Charged	263	85	939U	4380	T 939	\$6,995
Charged	263	85	939U	4380	T 939	\$3,915
Charged	263	85	941V+ 942V	VARIOUS	T941&T942	\$1,184,846
	263	85	939U	4380	T939	\$302,265

Budget Funding Year(s): Unit 941V & 942V - 2020 Start Date 1/1/20 End Date 12/31/20

(must match resolution)

Unit 939U 2019 - 2020 Start Date 10/1/19 End Date 9/30/20

Funding Source

Tax Dollars \$ 0

State Aid \$ 0

\$2,088,248

Federal Aid \$ 2,088,248

(must match resolution)

APPROVED BOARD OF ACQUISITION & CONTRACT ADMINISTRATION SECRETARY

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	\$2,549	\$13,223	\$3,915	\$3,444	\$4,408	\$16,323	\$21,546
YWCA Yonkers	\$18,019	\$4,446	\$0	\$0	\$6,007	\$0	\$28,472	\$0
TOTAL	\$28,349	\$6,995	\$13,223	\$3,915	\$9,451	\$4,408	\$44,795	\$21,546

APPROVED BOARD OF ACQUISITION & CONTRACT - 01/30/2020 - LISA MRIJAJ, SECRETARY

SCHEDULE "B"

MUNICIPALITY	NOT TO EXCEED FEDERAL FUNDS		NOT TO EXCEED FEDERAL FUNDS		CONTRACTOR MATCH		NET	
	IIIC-1	IIIC-1 NSIP	IIIC-2	IIIC-2	IIIC-1	IIIC-2	IIIC-1	IIIC-2
				NSIP				
Cortlandt	\$11,003	\$2,715	\$28,401	\$8,408	\$3,668	\$9,467	\$17,386	\$46,276
Eastchester	\$51,424	\$12,686	\$22,972	\$6,801	\$17,142	\$7,658	\$81,252	\$37,431
Greenburgh	\$77,027	\$16,286	\$42,148	\$12,477	\$25,676	\$14,050	\$118,989	\$68,675
Mamaroneck	\$17,608	\$4,344	\$42,032	\$12,442	\$5,870	\$14,011	\$27,822	\$68,485
Mount Kisco	\$40,678	\$10,035	\$32,015	\$9,477	\$13,560	\$10,672	\$64,273	\$52,164
Mount Pleasant	\$25,561	\$6,307	\$15,291	\$4,527	\$8,521	\$5,097	\$40,389	\$24,915
Mount Vernon	\$84,947	\$20,954	\$55,093	\$16,308	\$28,316	\$18,365	\$134,217	\$89,766
New Rochelle	\$69,159	\$17,060	\$0	\$0	\$23,053	\$0	\$109,272	\$0
Ossining	\$46,491	\$11,469	\$20,041	\$5,933	\$15,497	\$6,681	\$73,457	\$32,655
Peekskill	\$58,469	\$14,423	\$15,623	\$4,625	\$19,490	\$5,208	\$92,382	\$25,456
Port Chester	\$60,689	\$14,971	\$6,403	\$1,896	\$20,230	\$2,135	\$95,890	\$10,434
Somers	\$17,633	\$4,350	\$14,803	\$4,382	\$5,878	\$4,935	\$27,861	\$24,120
White Plains	\$35,200	\$8,684	\$0	\$0	\$11,734	\$0	\$55,618	\$0
Yonkers	\$175,394	\$37,035	\$37,480	\$11,094	\$58,465	\$12,494	\$270,944	\$61,068
Yorktown	\$30,977	\$7,642	\$50,284	\$14,884	\$10,326	\$16,762	\$48,945	\$81,930
TOTAL	\$802,260	\$189,011	\$382,586	\$113,254	\$267,426	\$127,535	\$1,258,697	\$623,375

APPROVED BOARD OF ACCOUNTS & CONTRACT ADMINISTRATION - 12/15/2020 - 15574444 SECRETARY