



NEW YORK STATE RECREATIONAL TRAILS PROGRAM (RTP) GUIDE

An Overview of RTP Grant Procedures from Application to Close-out



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New York State Recreational Trails Program Guide

Table of Contents

| | |
|---|----|
| How to Compete for RTP Funding Assistance..... | 3 |
| Important Requirements | 4 |
| Project Application..... | 4 |
| Eligible Applicants | 4 |
| Eligible Activities | 5 |
| Project Classification and Trail Use Categories..... | 5 |
| Application Requirements | 6 |
| Project Cost..... | 7 |
| General Principles for Cost Eligibility | 8 |
| Indirect Costs | 8 |
| Matching Share Requirements | 8 |
| Uses not permitted and Ineligible Expenses..... | 10 |
| Project Phase Authorizations..... | 11 |
| Application Review and Selection Process | 12 |
| Administering a Recreational Trails Program Project..... | 12 |
| Conditions of Award for Contract through Grants Gateway | 12 |
| Contracting Requirements..... | 13 |
| Public Access Requirements | 13 |
| Progress Reports..... | 13 |
| Project Management..... | 13 |
| Consultant Selection | 14 |
| Procurement | 14 |
| Reimbursement Process | 14 |
| Record Retention | 15 |
| RTP Equipment Only Project Checklist | 15 |
| Preliminary Engineering (PE) | 16 |
| Preliminary Design Phase | 16 |
| RTP Design Report | 16 |
| State Environmental Quality Review Act (SEQRA)..... | 16 |
| National Environmental Policy Act (NEPA) | 16 |
| National Historic Preservation Act Section 106 Review | 17 |
| Endangered Species Act (ESA) Section 7..... | 17 |

New York State Recreational Trails Program Guide

| | |
|---|----|
| Floodplain Management - Executive Order 11988..... | 17 |
| Wetlands Protection - Executive Order 11990 | 17 |
| Coastal Consistency | 17 |
| Final Design Phase | 17 |
| Review of Plans, Specifications and Estimates (Construction Contract Documents) | 17 |
| Americans with Disabilities Act (ADA) Compliance | 18 |
| Permits..... | 18 |
| Right-of-Way (ROW) Phase..... | 19 |
| ROW Documentation..... | 19 |
| Acquisition of Property | 19 |
| Right-of-Way Clearance Certificate Review and Approval | 21 |
| Construction Phase..... | 21 |
| Projects Let for Bid..... | 21 |
| Civil Rights..... | 22 |
| Construction Oversight | 23 |
| Closeout Requirements | 23 |
| Timeline for Project Completion..... | 24 |
| Project Extensions..... | 24 |
| Post-Closeout Requirements | 24 |
| Acronyms and Definitions..... | 24 |
| Appendix A: Application Scoring Criteria..... | 25 |
| Appendix B: Landowner Documentation..... | 25 |
| Appendix C: RTP Design Report and Appendices | 25 |
| Appendix D: RTP Federal Construction Contract Requirements | 25 |
| Appendix E: Progress Report | 26 |
| Appendix F: Payment Documentation..... | 26 |

New York State Recreational Trails Program Guide

The **Recreational Trails Program** (RTP) provides funds to the States to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. The RTP is an assistance program of the U.S. Department of Transportation’s Federal Highway Administration (FHWA). In New York State, the RTP is administered by the Office of Parks, Recreation and Historic Preservation (OPRHP).

The RTP legislation (23 USC 206¹) requires that States use 30% of funds for **non-motorized** recreation, 30% for **motorized** recreation, and 40% for **diverse** recreational trail use.

The RTP is a reimbursement program, meaning that the applicant must finance the project while requesting periodic reimbursements. RTP grants provide Federal funding of up to 80 percent of the total project cost with a minimum 20 percent matching share (see “Matching Share Requirements”).

Project proposals are solicited through a competitive application process and grants are awarded based on the application scoring criteria (Appendix A). Municipalities, State agencies, Federal agencies, public benefit corporations, public authorities and not-for-profit corporations are all eligible to receive RTP funding (see “Eligible Applicants”).

RTP funding is intended for trail-based projects that are primarily recreational in nature, rather than serving a strictly transportation function (see “Eligible Activities”). For the purposes of this program, sidewalks and publicly maintained roads are not considered trails. Planning proposals and feasibility studies are not eligible for funding through this program (see “Uses Not Permitted and Ineligible Expenses”).

Project information necessary for State and Federal approvals will be compiled and submitted as the *RTP Design Report* (Appendix C) during the Preliminary Design Phase (see “Preliminary Engineering (PE)”).

Projects must demonstrate compliance with State and Federal regulations including but not limited to:

- National Environmental Policy Act (NEPA),
- State Environmental Quality Review Act (SEQRA),
- Endangered Species Act (ESA),
- National Historic Preservation Act (NHPA),
- Executive Order 11988-Floodplain Management,
- Executive Order 11990-Wetlands Protection, and
- Presidential Executive Order on Buy American and Hire American (April 18, 2017).

How to Compete for RTP Funding Assistance

1. Read this RTP Guide in its entirety. It reflects the most recent guidance on the Recreational Trails Program and supersedes previous guidance materials distributed by OPRHP.
2. Review the RTP scoring criteria before beginning the application (Appendix A).
3. Visit the OPRHP Grants website at <https://parks.ny.gov/grants/> and read the RTP materials.
4. Complete the appropriate application by the application deadline with all relevant information.

¹ U.S. Code – Title 23-Highways, Section 206-Recreational Trails Program
<https://www.govinfo.gov/content/pkg/USCODE-2017-title23/pdf/USCODE-2017-title23-chap2-sec206.pdf>

New York State Recreational Trails Program Guide

Important Requirements

- This is a reimbursement program; therefore, 100% of the cost of any eligible item must be incurred and paid by the Federal-aid recipient before submitting a request for reimbursement to OPRHP.
- The RTP may reimburse up to 80% of a project's total eligible costs.
- The RTP funding is authorized in phases by FHWA (see "Project Phase Authorizations"). Expenses are only allowable after Federal authorization for the appropriate phase. Project schedules and budgets should be structured accordingly. Proceeding without Federal authorization may jeopardize Federal participation.
- Projects must comply with all Federal, State and local laws, procedures and requirements.
- Minimum and maximum funding request amounts are identified by category in the annual solicitation for proposals (see "Project Cost" for current limits).
- Projects funded through RTP must be consistent with the needs established by the Statewide Comprehensive Outdoor Recreation Plan (SCORP) or Statewide Trails Plan available at: <https://parks.ny.gov/grants/forms-resources.aspx>
- Projects must be legally and physically accessible to the public or be a portion of an identified trail project which, when completed, will be legally and physically accessible to the public. (See "Public Access")
- Applicants submitting proposals for trails crossing lands owned by another entity must provide evidence of their legal right to the property and authorization to undertake the proposal being described. (See "Right-of-Way Phase")

Project Application

Eligible Applicants

Municipalities, State agencies, Federal agencies, public benefit corporations, public authorities and not-for-profit corporations are eligible to receive RTP funding.

Note: There are several terms often used interchangeably to refer to the entity applying for RTP funding and undertaking the project (e.g. "contractor," "grantee," "project sponsor," "recipient," or "non-Federal entity"). In this document, *applicant* refers to the entity during the application stage, and *project sponsor* or *grantee* refers to the entity after a grant is awarded.

- Municipalities and not-for-profit corporations must apply through the online New York State Consolidated Funding Application (CFA) in odd-numbered years (2019, 2021, etc.).
 - **All CFA applicants must register in the Grants Gateway** at <https://grantsmanagement.ny.gov/>.
 - **All not-for-profit corporations must prequalify in the Grants Gateway.** Not-for-profit corporations which are not in prequalified status at the application deadline will be ineligible to receive grant funding. <https://grantsmanagement.ny.gov/get-prequalified>
- State and Federal agencies, public benefit corporations and public authorities must apply through the *State Application Solicitation* in even-numbered years (2020, 2022, etc.).
 - **State applicants must submit applications to the OPRHP Statewide Trails Planner.**
 - State projects will be administered through the OPRHP Albany office, not OPRHP regions. The point of contact for State project sponsors will be the OPRHP RTP Administrator.

New York State Recreational Trails Program Guide

Eligible Activities

Eligible project types are defined in the RTP legislation (23 USC 206(d)(2))². All applicants must link their proposed project to one, or more, of the following categories:

- **Maintenance and restoration of existing trails** may include any kind of trail maintenance, restoration, rehabilitation, or relocation. This category may include maintenance and restoration of trail bridges or appropriate signage along a trail.
- **Development and rehabilitation of trailside and trailhead facilities and trail linkages** for recreational trails may include development or rehabilitation of any trailside or trailhead facility. Trailside and trailhead facilities must have a direct relationship with a recreational trail.
- **Purchase and lease of recreational trail construction and maintenance equipment** includes purchase or lease of any trail construction or maintenance equipment, including lawn mowers and trail grooming machines, provided the equipment is used primarily to construct and maintain recreational trails.
- **Construction of new recreational trails** may include construction of new trail bridges or installation of appropriate signage along a trail. Separate guidelines and approvals apply to the construction of trails on Federal land.
- **Acquisition of easements and/or fee simple title to property** may include acquisition of old road or railroad bridges to be used as recreational trail bridges. However, 23 USC 206(g)(1) prohibits condemnation of any kind of interest in property (e.g. eminent domain). Therefore, acquisition of any kind of interest in property must be from a willing landowner or seller.
- **Assessment of trail conditions for accessibility and maintenance** authorizes specific projects to assess trails to determine the level of accessibility for people who have disabilities, to develop programs to provide trail access information, and to assess trails for current or future maintenance needs.

Project Classification and Trail Use Categories

The RTP legislation requires that States use 30% of funds for **non-motorized** recreation, 30% for **motorized** recreation, and 40% for **diverse** recreational trail use.

To provide flexibility in RTP project selection, the following categories are recognized for meeting the 40-30-30 requirements:

- **Non-motorized** use project: A project primarily intended to benefit non-motorized recreational trail use, such as pedestrian, equestrian, or mountain biking. A project may be classified in this category if the project serves one or more mode of non-motorized recreational use. RTP projects serving various pedestrian uses (such as walking, hiking, wheelchair use, running, bird-watching, nature interpretation, backpacking, etc.) constitute a single use for the purposes of this category.
- **Motorized** use project: A project primarily intended to benefit motorized use. A project may be classified in this category if the project serves only one mode of motorized recreational use or more than one mode of motorized recreational use. A project may be classified in this category if the project also benefits some non-motorized uses (it is not necessary to exclude non-motorized uses), but the primary intent must be for the benefit of motorized use.
- **Diverse** use project: A project primarily intended to benefit more than one mode of recreational use, such as pedestrian and bicycling, or pedestrian and equestrian. A Diverse use project may also include both motorized and non-motorized uses where motorized use is not the predominant use or when the motorized and non-motorized uses are separated by season, such as equestrian use in summer and

² U.S. Code – Title 23-Highways, Section 206-Recreational Trails Program

<https://www.govinfo.gov/content/pkg/USCODE-2017-title23/pdf/USCODE-2017-title23-chap2-sec206.pdf>

New York State Recreational Trails Program Guide

snowmobile use in winter. Other examples include: a common trailhead project serving separate ATV and bicycle trails; purchasing a machine to groom both snowmobile and cross-country ski trails.

Application Requirements

The following documentation must be submitted with the appropriate RTP application. Applications lacking these attachments, or an acceptable justification, are considered incomplete and may be deemed ineligible. Application guidelines are revised each grant cycle. *Use the guidelines from previous application rounds only as an example.*

- **All Applicants:**
 - **State Environmental Quality Review Act (SEQRA) compliance documentation**
 - **Not-for-profit corporations** must complete the *Environmental Review Form* available at <https://parks.ny.gov/grants/consolidated-funding-app.aspx>.
 - **Municipalities, State and Federal agencies, public authorities, public benefit corporations** must document compliance with SEQRA or provide status of SEQRA.
 - Type II – statement and justification.
 - Unlisted – [Short Environmental Assessment Form \(SEAF\) – Parts I – III](#).³
 - Type I – [Full Environmental Assessment Form \(FEAF\)](#)⁴ and either a negative declaration or Final Environmental Impact Statement (FEIS) and SEQRA Findings.
 - **Photos** showing the project area and/or the type of equipment to be purchased.
 - **1:24,000 scale topographic or planimetric map** with the project location and subject property identified.
 - **Land Ownership/Land Use Agreement documentation** demonstrating the status of right-of-way (see “Right-of-way (ROW) Phase”).
- **Friends and Partner Groups of State Parks:**
 - Letters of support from the Regional Director AND Capital Facilities Manager. One letter of support may be provided with both signatures.
- **Construction, Rehabilitation, Restoration and Maintenance Projects:**
 - A conceptual plan that identifies the project elements in relation to property boundaries and existing features.
- **Work on Public Lands:**
 - Applicants submitting proposals for work on lands owned by a public entity are required to enter into a separate legal agreement with that public entity to undertake the work described in the RTP application. A copy of this agreement must be included with the RTP application. If the agreement is pending, then the draft agreement must be included with the RTP application.
- **Work on Private Lands:**
 - Applicants submitting proposals for work on privately owned land must submit documentation of property rights (e.g., deed, lease or easement).
 - If the applicant does *not* have all necessary property rights secured at the time of application, see “Property Acquisition and Easement Acquisition Projects” below.
- **Purchase or Lease of Equipment:**

³ <https://www.dec.ny.gov/permits/6191.html>

⁴ <https://www.dec.ny.gov/permits/6191.html>

New York State Recreational Trails Program Guide

- A brochure or price quote of the *general type* of equipment to be purchased or leased.
 - A competitive procurement process is required after Federal funding is authorized. The equipment referenced in the application *may or may not* be the exact equipment purchased.
- A signed statement from the Responsible Local Official that all landowner permissions have been obtained (see “Project Management” section below for more information about the role of the Responsible Local Official and Appendix B: *Landowner Permission Attestation - RTP Equipment Purchase Project*).
- For projects involving the purchase of motorized grooming or trail maintenance equipment for use on New York State lands: A signed statement by the agency of jurisdiction certifying that the use of such equipment is consistent with the policies and management plan for such properties.
- **Property Acquisition and Easement Acquisition Projects:**
 - A copy of the letter from the applicant delivered to all property owners describing the RTP project, which includes language that eminent domain will not be utilized should negotiations to purchase fail (see Appendix B: *Sample RTP Notice to Owner Letter*).
 - A copy of letter(s) from the property owner(s) indicating willingness and intent to sell, donate or transfer the property to the applicant.
 - Documentation of the status of the property acquisition. Any property acquired specifically for an RTP project must be Uniform Act compliant. (See “Right-of-Way (ROW) Phase.”)
- **Construction of Trails on Federal Lands:**
 - A signed letter of support from the Federal Agency having jurisdiction.
- **Construction of Motorized Trails on National Forest System Lands:**
 - A signed statement certifying that the lands have been allocated for uses other than wilderness by the approved agency resource management plan or have been released to uses other than wilderness by an Act of Congress, and such construction is consistent with the resource management plan.
- **Indirect Costs**
 - A copy of the Indirect Cost Rate Approval Letter from Federal Cognizant Agency.

Project Cost

The total cost of each project may only include eligible costs (see “General Principles for Cost Eligibility”). Minimum and maximum funding request amounts are established annually in the solicitation for proposals. Typical minimum and maximum funding guidelines are as follows:

- **Minimum** Federal funding request for maintenance, restoration, rehabilitation, development, construction, acquisition, and assessment projects: **\$25,000** (\$31,250 minimum total project cost).
- **Minimum** Federal funding request for equipment purchase-only projects: **\$5,000** (\$6,250 minimum total project cost).
- **Maximum** Federal funding request for all projects: **\$250,000** (\$312,500 minimum total project cost).

Approximately \$2 million is available to fund projects annually. It is anticipated that 10 - 20 grants may be awarded each year. The actual dollar value and number of grants awarded is contingent upon the amount of RTP funding available to New York State at the time of grant award selections.

New York State Recreational Trails Program Guide

General Principles for Cost Eligibility

Grant Management Cost Principles are outlined in the Code of Federal Regulations (CFR), Title 2: Grants and Agreements – Part 200 (2 CFR 200) Subpart E and Appendices. The following principles are excerpted from 2 CFR 200 Subpart E and guide the eligibility of project costs.⁵ Refer to www.ecfr.gov for the full text.

Eligible costs must:

- Be necessary and reasonable for the performance of the Federal award and be allowable under the principles outlined in 2 CFR 200.
- Conform to any limitations or exclusions set forth in 2 CFR 200 Subpart E or in the Federal award as to types or amount of cost items.
- Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the non-Federal entity.
- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- Be determined in accordance with generally accepted accounting principles, except, for State and local governments and Indian tribes only, as otherwise provided for in 2 CFR 200.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period (Except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs⁶);
- Be adequately documented.

Indirect Costs

Costs not directly attributable to the project, i.e. “indirect costs”, are not generally eligible for reimbursement (i.e. expenditures for the maintenance, general administration, supervision, and other general operating or capital overhead of the Sponsor’s organization). In certain instances, indirect costs can be approved for reimbursement if the Sponsor’s indirect cost rates are approved by the Federal cognizant agency.

Matching Share Requirements

The RTP will reimburse a grantee for up to 80% of the total eligible project costs up to the approved funding amount. At a minimum, a local match is required for 20% of the total eligible project costs. The project sponsor is responsible for any increases in the total cost of the project, grant awards will not be increased.

The RTP funds may be matched with funds available under other Federal funding programs, if the project also is eligible for funding under the other Federal program. Federal funds received by any project sponsor from another Federal program may be credited as if they were the non-Federal share and may be used to match the RTP project funds up to 100 percent of the project cost⁷. However:

- A Federal agency project sponsor may provide any amount of its own funds toward an RTP project as additional Federal share, provided the total Federal share does not exceed 95 percent of the total

⁵ Code of Federal Regulations, Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – Subpart E – Cost Principles, §200.403

⁶ Code of Federal Regulations, Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – Subpart D – Post Federal Award Requirements, §200.306

⁷ https://www.fhwa.dot.gov/environment/recreational_trails/guidance/matchingfunds.cfm See the Catalog of Federal Domestic Assistance for Federal programs which may be used to match RTP funds.

New York State Recreational Trails Program Guide

project cost. Funds from Federal agency project sponsors must be credited as additional Federal share, not as part of the non-Federal share. The limitation is intended to ensure commitment to the project from State, local, or private co-sponsors.

- Other Federal programs may require a non-Federal share, which must be adhered to as part of grant administration. For example, a \$10,000 RTP project may use \$8,000 in RTP funds and be matched by \$2,000 Transportation Alternatives Program (TAP) funds, but the TAP funds are limited to an 80 percent Federal share, or \$1,600. The sponsor would have to provide a \$400 match from non-Federal sources.
- Other Federal program funds may be used to match RTP funds, this does not mean that RTP funds may be used to match other Federal program funds. For example, although TAP funds may be used to match RTP funds, RTP funds may not be used to match TAP funds.

Indian tribal funds may be used as non-Federal match for the purposes of this program regardless of the source of the funds. This may include Federal lands highway funds.

Planning and environmental compliance costs can be counted toward the matching share up to 18 months prior to the Federal authorization date⁸.

Contributions to the Matching Share must be necessary and reasonable for the accomplishment of the project and comply with the requirements of 2 CFR 200.306⁹ and the “General Principles for Cost Eligibility.” Eligible Sources of Matching Share include:

- **Cash:** Donations and other eligible matching grant funds.
- **Force Account** (Payroll of applicant): Itemize by job title or project assignment. At the time of the reimbursement request, grant recipients will be required to document time worked, tasks, pay ratio and payment (including components and percentage of fringe benefit rate). Note: Fringe benefit rate cannot exceed the Federal rate for that fiscal year.
- **Professional Services:** The value of services provided by professional and technical personnel and consultants.
- **Supplies and Materials:** The value of items warehoused (not yet installed) with current market prices at the time they are obtained.
- **Volunteer Labor:** Skilled and professional labor can be computed at the job rate. The value for labor (unskilled labor and work performed by professionals or skilled laborers in an area outside of their area of expertise) of an adult (18 and over) donating time to a project may be computed up to the amount indicated for New York State at http://www.independentsector.org/volunteer_time. (For example, a lawyer donating legal services may compute the value based on the standard billing rate, but the value for the same lawyer donating time landscaping will be calculated up to the amount identified as the Value of Volunteer Time for New York State.)
- **Equipment Usage/Donation:** Compute the value according to its fair market rental value in the project location. Must use approved standard equipment usage rates (See Appendix F: *Payment Documentation for Local Assistance Grants*).

⁸ 23 U.S.C. 206(h)(1)(C)

⁹ Code of Federal Regulations, Title 2, Subtitle A, Chapter II, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – Subpart D – Post Federal Award Requirements, §200.306

New York State Recreational Trails Program Guide

- **Real Property:** The Fair Market Value of all property acquired or donated, based on an appraisal performed in accordance with The Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Act.

The maximum funding request amount must not exceed 80% of the total eligible project cost including donated value of materials and labor.

The actual amount the RTP will reimburse varies based on the actual amount spent and compliance with RTP requirements. The RTP will not reimburse for expenditures not made.

Examples:

| | | |
|------------|--|------------------------|
| # 1 | <u>Total Project Cost</u> | <u>\$40,000</u> |
| | Cost of materials | \$20,000 |
| | Cost of county work forces (Force Account) | \$12,000 |
| | Value of private volunteer labor | \$8,000 |

The RTP grant award equals \$32,000. The sponsor spent \$32,000 on materials, services and work forces. The total value of the volunteer labor (\$8,000) was used as the local matching share. So, the sponsor may receive reimbursement for 80% of the total project cost (\$40,000), which is equal to the full grant award of \$32,000.

| | | |
|------------|---|------------------------|
| # 2 | <u>Total Project Cost</u> | <u>\$40,000</u> |
| | Cost of materials | \$8,000 |
| | Cost of city/county work forces (Force Account) | \$8,000 |
| | Value of donated materials | \$12,000 |
| | Value of private volunteer labor | \$12,000 |

The RTP grant award equals \$32,000. The sponsor spent \$16,000 on materials, services and work forces. The total value of donated materials and volunteer labor is \$24,000. Although the RTP grant award for this project is \$32,000, the maximum reimbursement is \$16,000 for the cost of materials and work forces.

Uses not permitted and Ineligible Expenses

Grantees may not use RTP funds to carry out any of the following activities.¹⁰

- Condemnation of any kind of interest in property;
- Construction of any recreational trail on National Forest System land for any motorized use unless the land has been designated for uses other than wilderness by an approved forest land and resource management plan, or has been released to uses other than wilderness by an Act of Congress; and the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;
- Construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land has been designated for uses other than wilderness by an approved Bureau of Land Management resource management plan, or has been released to uses other than

¹⁰ https://www.fhwa.dot.gov/environment/recreational_trails/guidance/rtp9908_pt2.cfm#rtp17

New York State Recreational Trails Program Guide

- wilderness by an Act of Congress; and the construction is otherwise consistent with the management direction in the approved management plan;
- Upgrading, expanding, or otherwise facilitating motorized use or access to recreational trails predominantly used by non-motorized recreational trail users and on which, as of May 1, 1991, motorized use was prohibited or had not occurred;
 - Condemned Land as Matching Value: An RTP project may be located on land condemned with funds from other sources. However, it is not permissible to use the value of condemned land toward the match requirement for an RTP project;
 - Planning project proposals, gap analysis studies, feasibility studies;
 - Law Enforcement;
 - Railroads: RTP projects should not be approved on railroad right-of-way on which the railroad tracks are in place, if trail users will traverse on or between the railroad tracks, except for providing railroad crossing in coordination with the railroad owner, operator, or State agency with jurisdiction over railroads;
 - Roads: RTP funds may not be used for improvements to roads and/or bridges intended to be generally accessible by low clearance passenger vehicles (regular passenger cars), unless those roads/bridges are specifically designed for recreational use by the managing agency;
 - Sidewalks: unless needed to complete a missing link between other recreational trails.

Project Phase Authorizations

All projects will require phased Federal Authorizations. Project expenses are not eligible for reimbursement until the Federal Highway Administration has authorized that phase. Below is an overview of the activities contained within each phase. A more detailed description of the activities included in each phase is provided elsewhere in this Guide. Project managers should anticipate project costs, funding sources and reimbursement schedule when budgeting for project expenses.

All project activities must progress by project phase and only as authorized. Each phase must be completed before obtaining authorization for the next phase. The OPRHP Regional Grant Administrator will notify the grantee when they have received Federal authorization for each phase. Project Sponsors must begin and continue submitting payment requests within six months of each phase authorization (see “Reimbursement Process”). Any expenses incurred before Federal Authorization are not eligible for reimbursement.

Preliminary Design: Defines the general project location and design concepts. Identify the project elements in relation to property boundaries and existing features. Includes but is not limited to the preparation of the Design Report, environmental surveys and NEPA approval. (See “Preliminary Design Phase.”)

Final Design: Includes the preparation of final construction plans and detailed specifications for the performance of construction work and securing of permits. Projects that do not include acquisition of real property may receive Right-of-way approval in Final Design Phase. (See “Final Design Phase.”)

Right-of-way (ROW): Evidence to support the current right-of-way status is required with the RTP application. Applicants should document the status of property ownership (e.g. deed, easement, license agreement) and if applicable, document landowners’ willingness to sell or donate their property to the applicant (i.e. letter from landowner). All RTP projects involving construction activities will require the issuance of a ROW Clearance Certificate. (See “Right-of-Way (ROW) Phase.”)

Construction: Allows the project to proceed to construction. OPRHP Regional Grant personnel will oversee administration of the project in accordance with applicable Federal laws, regulations and guidance during

New York State Recreational Trails Program Guide

construction. Project Sponsors must use their own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations.¹¹ (See “Construction Phase.”)

Application Review and Selection Process

The rating criteria used for selecting projects is based upon key factors that seek to expand and enhance trail-based recreation in New York State.

Each application will be reviewed for eligibility and, if determined eligible, will be scored per the Selection Criteria (Appendix A). Applications deemed ineligible or incomplete will be eliminated from consideration for funding. Applicants whose applications are deemed ineligible will be notified prior to the beginning of the rating period.

A successful grant proposal is not expected to meet all selection criteria. While selecting top-ranked projects for funding, the Commissioner of Parks, Recreation and Historic Preservation must ensure compliance with the mandated program spending requirements. It is not expected that all categories will be funded in all regions. When award recommendations are finalized, OPRHP submits recommended projects to the FHWA for approval. Grant awards are contingent upon FHWA approval.

Administering a Recreational Trails Program Project

The following procedures are identified for typical recreational trails projects outside the Federal-aid highway right-of-way. Projects located within the Federal-aid highway right-of-way are subject to additional requirements and will require additional consultation with the New York State Department of Transportation (NYSDOT). NYSDOT’s Local Projects Manual (LPM) formerly known as the Procedures for Locally Administered Federal-Aid Projects Manual (PLAFAP) is online and available for reference.¹²

Conditions of Award for Contract through Grants Gateway

Successful applicants are advised NOT to begin work until a project contract with the State has been fully executed and Federal Authorization for the applicable project phase has been granted. Proceeding without FHWA and OPRHP approval will jeopardize grant reimbursement. Certain conditions of award must be met before a contract can be executed. These include:

- Submission of a signed authorizing resolution that names the Responsible Local Official authorized to accept grant funds and execute a contract with the State. (See “Project Management” section below for more information about the role of the Responsible Local Official.)
- Documentation of compliance with the State Environmental Quality Review Act (SEQRA).
- Not-for-profit grantees:
 - Documentation of coverage or exemption for Workers’ Compensation and Disability Insurance;
 - Current filings under Section 501 of the United States Internal Revenue Code and the following New York State Laws, as applicable: Article 7-A of the Executive Law; Section 8-1.4 of the Estates, Powers and Trusts Law; Section 1508 of the Not-for-Profit Corporation Law; or Section 215 of the Education Law; and

¹¹ Code of Federal Regulations, Title 2, Subtitle B, Chapter XII, Part 1201 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – §1201.317

¹² <https://www.dot.ny.gov/PLAFAP>

New York State Recreational Trails Program Guide

- Valid New York State Vendor Responsibility Questionnaire (VRQ).¹³

Contracting Requirements

OPRHP is responsible for contracting with the grantee. Federal authorization is required prior to OPRHP signing the New York State Master Contract for Grants. For projects awarded to other State agencies, a Memorandum of Understanding will serve as the project agreement between the project sponsor and OPRHP. The earliest date of Federal Authorization serves as the start date for all RTP projects.

All RTP construction contracts and sub-contracts must include the RTP Federal Construction Contract Requirements (Appendix D). When Federal, State and Local laws and regulations conflict, OPRHP must be contacted for consultation with the FHWA.

Public Access Requirements

All RTP projects must be accessible to the public. The specific term of public access will be indicated in the executed NYS Master Contract for Grants. Each trail facility will have a life expectancy associated with it. The preference for Federal-aid investments is that the public interest in, and access to, the trail should be in perpetuity. However, the protection of the public interest in the expenditure of RTP funds is somewhat dependent on the nature and magnitude of the expenditure. Therefore, a greater amount of Federal funding will require a longer facility life. The typical life expectancy and term of public access is based on the following guidelines:

- Grant award: \$0 to \$25,000 10 years minimum
- Grant award: \$25,001 to \$50,000 15 years minimum
- Grant award: \$50,001 to \$100,000 20 years minimum
- Grant award: \$100,001 and above 25 years minimum

Generally, the RTP grant agreement obligates grantees, which use RTP funds to acquire real property or improve real property in which they have an interest, not to sell, lease, exchange, otherwise dispose of, or change the use of the grant funded property without the express authority of an act of the Legislature. However, not-for-profit corporations may transfer their interest in the grant-funded real property to the State, to a local government, or to another not-for-profit corporation without an act of the Legislature if such transfer requires the property to be used as a recreational trail for the remainder of the public access term and subject to the same restrictions on transfer as the grantee. Grantees whose grant-funded real property is subject to a conservation easement held by the State are further restricted in their disposal and use of the property by the specific terms of the conservation easement.¹⁴

Progress Reports

Project sponsors must submit quarterly progress reports providing the status of the trail project (Appendix E). It is the responsibility of the project sponsor to submit progress reports to OPRHP. Failure to submit reports may result in repayment of funding. Progress reports may be emailed to the appropriate OPRHP Regional Grants Administrator. Be sure to reference the project number and name in the subject line of the email.

Project Management

Project sponsors must assign one person as the Project Manager (PM). This person will schedule the progression of activities, ensure timely completion of project tasks and address any problems or inquiries which

¹³ https://www.osc.state.ny.us/vendrep/info_vrsystem.htm

¹⁴ Title 3 of Article 49 of the New York State Environmental Conservation Law

New York State Recreational Trails Program Guide

may develop. The Project Manager will be the primary contact person for the submission of necessary reports, requests for progress payments, and obtaining approvals and determinations, etc.

The Responsible Local Official (RLO) has ultimate oversight and responsibility for the project and is typically assigned the role of “Grantee Contract Signatory” in the Grants Gateway. The RLO may assign a Project Manager (PM) to be in responsible charge of the project. The Project Manager will report to the Responsible Local Official. The PM and the RLO may be the same individual, if the RLO has project management experience.

The Project Manager *must* work closely with the OPRHP Regional Grants Administrator (RGA) to ensure proper interpretation of all project requirements. Proper interpretation of a project’s requirements is critical to successful implementation and coordination of ongoing activities.

The Project Manager is responsible for providing adequate supervision and inspection, including materials inspection and quality assurance to ensure projects are completed in conformance with the construction contract documents, plans and specifications. The project budget must account for any anticipated costs associated with this requirement.

Consultant Selection

The selection of consultants and contractors is regulated by 40 USC 11 (The Brooks Act), which requires the award of Federally funded architectural/engineering contracts on the basis of fair and open competitive negotiations, demonstrated competence, and professional qualifications. 23 CFR 172 details the requirements of a Qualifications-Based Selection process. Article 9 Section 136-a of the State Finance Law contains provisions for the selection of consultants which is similar to the Brooks Act.

Procurement

In accordance with 2 CFR 200.318, RTP project sponsors are expected to adhere to their own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations.¹⁵

Project sponsors must also adhere to the RTP Federal Construction Contract Requirements (Appendix D), including but not limited to 23 USC 313 Buy America provisions and the 2017 Presidential Executive Order on Buy American and Hire American. Buy America requirements are found at 23 CFR 635.410.¹⁶

Reimbursement Process

This is a reimbursement program; therefore, the grant recipient must pay 100% of the cost of any item before submitting a request for reimbursement of eligible expenses. Each request for reimbursement must not exceed 80% of the total eligible costs incurred. Only expenses incurred after obtaining Federal authorization and during the contract period are eligible for reimbursement.

Reimbursements will be made only for those items that were approved in the contract and cost estimate. OPRHP requires verification and justification of all expenditures including proof of payment, labor, materials, supplies and services. All reimbursement requests require documentation suitable for audit to verify expenditures for work performed in accordance with contract documents and proof of payment accompanied by a signed certification from the project sponsor (see Appendix F: *Payment Documentation for Local Assistance Grants*). The certification is to ensure that the expenditures submitted to OPRHP for reimbursement

¹⁵ Code of Federal Regulations, Title 2, Subtitle B, Chapter XII, Part 1201 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – §1201.317

¹⁶ Code of Federal Regulations, Title 23, Chapter I, Subchapter G, Part 635 – Construction and Maintenance – Subpart D – General Material Requirements, §635.410

New York State Recreational Trails Program Guide

comply with the approved scope of work, cost estimate, applicable contract terms and regulations. Failure to submit necessary payment documentation may prevent approval of reimbursement.

OPRHP will only reimburse the final 10% of the approved maximum grant amount to the project sponsor after all required close-out documentation has been submitted, and OPRHP has completed a final on-site inspection and approved the close-out documentation.

A minimum payment amount of no less than \$500, should be submitted for reimbursement every 6 months.

The following documentation must be submitted to the OPRHP Regional Grants Administrator for reimbursement (Appendix F):

- **Expense Summary Form for RTP Reimbursement**
- **Appropriate Payment Documentation for Local Assistance Grants**
- **Grantee Certification for Payment**

Projects become *'inactive'* after one year has passed without a Federal reimbursement. Projects listed as inactive may be *de-obligated* by FHWA. Any costs incurred after the *de-obligation date* are not eligible for Federal reimbursement. Another Federal authorization must occur after de-obligation to make the project eligible for Federal financial assistance again. Projects in danger of being de-obligated will be required to provide the following information identifying:

- Reasons for lack of billings;
- Date and/or timeline when billings will be submitted for reimbursement;
- If any paid invoices were charged to a State or local fund;
- Situations beyond the sponsor's control which would impact billings such as litigation or environmental issues.

Failure to submit regular payments for reimbursement, or demonstrate progress, may result in termination of project funding and repayment of previously reimbursed Federal funds.

Record Retention

Project sponsors are responsible for retaining project documents during each phase. Examples include, but are not limited to:

- The signed RTP Design Report including all appendices;
- Documentation of NEPA determination;
- Signed ROW Clearance Certificate;
- Final construction contract documents, including change orders;
- Construction oversight documentation to support payments including;
 - Project Manager and/or Engineer's on-site inspection reports; and
 - Materials certifications, testing data and quantities verification, as applicable.

In addition, all required payment documentation must be retained and available for inspection upon request for a period defined in the *New York State Master Contract for Grants*. (See Appendix F: *Grantee Certification for Payment*.)

RTP Equipment Only Project Checklist

For Equipment Only Projects, Project Managers must complete the RTP Equipment Only Checklist (see Appendix C for checklist and instructions). No Design Report is required for projects involving only equipment purchase, and all RTP funds will be authorized in a single phase after the Checklist is completed.

New York State Recreational Trails Program Guide

Preliminary Engineering (PE)

Preliminary Engineering is divided into a Preliminary Design phase and a Final Design phase. Each of these design phases must be separately authorized by FHWA. Preliminary Design includes the preparation of the RTP Design Report and compliance with NEPA. Authorization of final design shall only occur after the NEPA determination has been completed.¹⁷ Final Design includes the preparation of final construction plans and detailed specifications for the performance of construction work and securing of permits. Projects that do not include acquisition of real property may receive the Right-of-way Clearance Certificate during the Final Design Phase.

Preliminary Design Phase

RTP Design Report

The RTP Design Report (Appendix C) includes conceptual plans and design values, and is used for communicating compliance with NEPA, SEQRA, and Section 106 of the National Historic Preservation Act (NHPA). Conceptual plans included in the Design Report must identify the project elements in relation to property boundaries and existing features. Within the body of the Design Report, project sponsors must identify any design standards used in the preparation of project plans. Standard design values and non-standard features must be identified. Project sponsors are required to state and be able to defend the design standards they will use.

The Project Manager is responsible for completion of the Design Report. Any work which falls outside the scope of the RTP funded project should be excluded from the Design Report. OPRHP is responsible for ensuring that RTP projects comply with the National Environmental Policy Act (NEPA) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). Design Report documents and project approvals are progressed through the OPRHP. OPRHP will obtain necessary approvals through FHWA.

Draft Design Report materials may be submitted electronically. The Right-of-Way (ROW) Certificate should be submitted in hardcopy with an original signature.

State Environmental Quality Review Act (SEQRA)

OPRHP is responsible for ensuring that projects have been reviewed under SEQRA. Compliance with SEQRA is required prior to executing a contract. Municipalities receiving grant awards will be lead agencies under SEQRA. OPRHP is the lead agency under SEQRA for grants awarded to not-for-profit corporations and projects on State parkland. During the SEQRA review, OPRHP will note if permit consultation from either the New York State Department of Environmental Conservation (DEC) and/or Army Corps of Engineers (ACOE) may be required. A copy of the permit(s) or a letter from the appropriate Agency stating that no permit is required, must be submitted during the Final Design phase, and before construction.

National Environmental Policy Act (NEPA)

After a grant is awarded, a completed environmental survey form and supporting documents must be submitted to OPRHP for a NEPA determination (see Appendix C for instructions). Once this documentation is submitted, a Federal Environmental Approval Worksheet (FEAW) is completed by OPRHP (Appendix C). As part of the NEPA review, technical studies, such as, habitat assessments or wetlands delineation, may be required and are the responsibility of the project sponsor. After all required information is provided to OPRHP, the FEAW

¹⁷ FHWA Order 6640.1A

New York State Recreational Trails Program Guide

must be signed by the Project Manager. This process may require approvals through FHWA and other Federal or State agencies.

NEPA functions as an umbrella approval that encompasses multiple reviews. Below is a selection of the most common reviews that must be satisfied as part of the National Environmental Policy Act.

National Historic Preservation Act Section 106 Review

Any projects that receive funding from Federal agencies must be reviewed by the State Historic Preservation Office for compliance with Section 106 of the National Historic Preservation Act. This legislation requires projects to take into account the effects of their undertakings on historic properties.

Endangered Species Act (ESA) Section 7

Any projects that receive funding from Federal agencies must be reviewed in compliance with Section 7 of the Endangered Species Act. This legislation requires consultation with US Fish and Wildlife Service for any actions that may jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.

Floodplain Management - Executive Order 11988

Any projects that receive funding from Federal agencies must be reviewed for compliance with Executive Order 11988 Floodplain Management to evaluate the potential effect of any actions in a floodplain. If a hydraulic assessment determines that the base flood elevation will increase, FHWA consultation will be required.

Wetlands Protection - Executive Order 11990

Any projects that receive funding from Federal agencies must be consistent with Executive Order 11990 Protection of Wetlands and the U.S. Army Corps of Engineers (U.S.A.C.E.) finding requirements and not impact wetlands. If the project will impact wetlands, either a programmatic finding or an individual finding will be required as needed.

Coastal Consistency

Projects occurring within the [coastal boundary](#) (Lake Erie, Lake Ontario, Hudson River to the Troy dam, New York City, Long Island, Great Lakes, Niagara and St. Lawrence Rivers) of New York State and receiving Federal funding require a coastal consistency determination by the New York State Department of State (NYSDOS). OPRHP will submit the coastal consistency request to NYSDOS. A copy of the consistency concurrence letter from NYSDOS is required as part of demonstrating compliance with NEPA. If a Federal permit is required for the project, the applicant is required to submit for coastal consistency concurrence from NYSDOS as part of their permit application.

Final Design Phase

Review of Plans, Specifications and Estimates (Construction Contract Documents)

Constructions plans and bid documentation must be administratively reviewed by OPRHP prior to the bid advertisement. Administrative review is defined as a review of bidding documents, construction plans, specifications and/or contractual documents to determine consistency with the approved Recreational Trails Program scope of work and applicable laws and regulations. OPRHP's administrative review of these items and permission to proceed shall not be considered a professional architectural, engineering or legal review, or an

New York State Recreational Trails Program Guide

endorsement of design practices and standards. Project sponsors are required to state and defend the design standards they will use.

All Recreational Trails Program projects are subject to New York State Education Law (Articles 145, 147 & 148) regarding the preparation of plans and specifications. Plans which include the design of buildings and/or structures, such as bridges, tunnels, and scenic overlooks, must be stamped, signed and dated by a Licensed Professional, as defined in New York State Education Law.

Americans with Disabilities Act (ADA) Compliance

RTP projects involving paved shared-use paths and construction of facilities must comply with the Americans with Disabilities Act (ADA). The design standards issued under the Americans with Disabilities Act by the Department of Justice and the Department of Transportation ensure access to the built environment for people with disabilities. The [ADA Standards](#) apply nationwide, in addition to any applicable state or local codes, where facilities are newly built or altered.

The [Architectural Barriers Act \(ABA\) Standards for Outdoor Developed Areas](#)¹⁸ apply to projects on Federal lands or constructed by a Federal agency. The guidelines provide detailed specifications for accessible recreational trails and outdoor developed areas. Although the guidelines do not necessarily apply to Federal-aid projects (unless on Federal land), they provide best practices to ensure compliance under the ADA.

A woodland or motorized trail or trail facility must be constructed as accessible according to the applicable standards defined above, but more specifically as outlined in the [US Forest Service Trail Accessibility Guidelines](#),¹⁹ in compliance with all State and Federal requirements. Any new trail construction must be built as accessible to the extent feasible.

Departures from specific accessibility guidelines are permitted for any portion of the trail where compliance would:

- Cause substantial harm to cultural, historic, religious, or significant natural features or characteristics;
- Substantially alter the nature of the setting or the purpose;
- Require construction methods or materials that are prohibited by Federal, State, or local regulations or statutes; or
- Not be feasible due to terrain or the prevailing construction practices.

Additional accessibility guidance is available at:

https://www.fhwa.dot.gov/environment/recreational_trails/guidance/accessibility_guidance/

Permits

During the Preliminary Design phase of the project, all applicable resource and regulatory agencies should be consulted to determine permitting needs and to address environmental concerns. The Joint Application Form is used to apply for permits from several agencies. The Joint Application Permit and instructions are available on the [Department of Environmental Conservation's website](#).²⁰ Project Sponsors are responsible for obtaining all permits and approvals before construction, however *certain approvals are required before FHWA grants design approval*.

¹⁸ <https://www.access-board.gov/guidelines-and-standards/recreation-facilities/outdoor-developed-areas>

¹⁹ https://www.fs.fed.us/recreation/programs/accessibility/FSTAG_2013%20Update.pdf

²⁰ <https://www.dec.ny.gov/permits/6222.html>

New York State Recreational Trails Program Guide

Right-of-Way (ROW) Phase

ROW Documentation

A Right-of-Way (ROW) Clearance Certificate is required for every Recreational Trail Program (RTP) project. The certificate is an attestation of the current condition and status of the project property. The significance of the clearance certificate is to certify that the sponsor has the legal right to construct, maintain and operate the recreational trail for its intended use. It is the sponsor's responsibility to provide proof of these property rights and demonstrate that all proposed work will occur within the project limits. The OPRHP Regional Grants Administrator is the project sponsor's point of contact for all phases of the project and must be included in all communications regarding right-of-way. The final certificate will be countersigned by the New York State Department of Transportation (NYSDOT) Regional Real Estate Officer (RREO) in the appropriate regional jurisdiction upon RTP review and concurrence that the right-of-way is clear.

Proof of adequate property rights may be provided in various forms. Professionally prepared plan sheets with boundary lines depicted will detail the work limits shown respective to the parcel boundaries. Existing property rights (ownership, easements, access rights, etc.) should be prominently displayed on the plan sheets referencing the liber and page of the recorded document.

In the event plan sheets are not prepared for the RTP project, the proposed work areas may be superimposed on a professionally prepared boundary map or survey of the project property. These documents should include all appropriate identifying information. The source of title recorded liber and page or the law granting the right to the property must be provided. Where work limits are close to a boundary, a legible scale should be provided to clearly demonstrate that the work is clearly within the boundary. Tax maps are not acceptable as proof of ownership.

Acquisition of Property

For those projects requiring additional right-of-way, the following applies.

All Federally-funded RTP projects must comply with the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#)²¹ (Uniform Act), as amended. The acquisition of additional right-of-way itself does not need to utilize Federal funds for the rules to apply. When Federal funds are present anywhere in the project, the rules of the Uniform Act apply. This applies to donations as well as purchases.

The enabling legislation prohibits the use of RTP funds for condemnation of any kind of property interest.²² An RTP project may be located on land condemned with funds from other sources. However, to be consistent with the RTP legislation, it is not permissible to use the value of condemned land toward the matching share requirement for an RTP project. The use of RTP funding on previously condemned property will be situation specific and dependent upon the purpose, time and circumstances of the condemnation.

Note: any property acquired specifically for an RTP project must be Uniform Act compliant. This includes prior acquisitions and those utilizing other funding sources.

Acquisition of any property interest must be from a willing seller. The grantor must be informed in writing that should negotiations fail, the authority to acquire by New York State (NYS) Eminent Domain Procedure Law (EDPL) will not be used.

²¹ <https://www.gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap61>

²² US Code Title 23 Section 206 (g)(1)

New York State Recreational Trails Program Guide

Procedure

The steps identified are to be followed for any RTP project acquisition assuming the project has progressed with community support, all prerequisite activities have been completed and there are willing sellers. For more in-depth requirements and explanation, Chapter 11 Right-of-Way of the [NYSDOT Local Projects Manual \(LPM\)](#) formerly known as the Procedures for Locally Administered Federal-Aid Projects Manual (PLAFAP) is online and available for reference.²³ Additional chapters may be of assistance in advancing your Federal-aid RTP project.

Note: As EDPL is not an option for RTP projects, not all of the provisions in PLAFAP Chapter 11 apply. Caution is given that any Uniform Act violation may result in the partial or complete loss of Federal funding. If unsure if an action is appropriate, always contact the OPRHP Regional Grants Administrator for coordination with the NYSDOT Regional Real Estate Officer (RREO) prior to proceeding.

- 1) A letter describing the RTP project shall be delivered to all property owners and interests which includes language that eminent domain will not be utilized should negotiations to purchase fail (see Appendix B: *RTP Sample Notice to Owner Letter*).
- 2) A map or survey of the acquisition area shall be prepared for appraisal/valuation purposes and subsequent deed preparation if the acquisition is not a full taking of the current deeded parcel. An acquisition map is unnecessary but may be utilized.
- 3) Title Certification – the sponsor’s attorney shall certify all property interests utilizing a title search commensurate to the anticipated purchase price. The title search and the map or survey aid the attorney with this certification.
- 4) The value of property to be acquired must be established by an appraisal performed in accordance with The Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Act. The property owner or their representative must be invited to accompany the appraiser for the parcel inspection. The resulting appraisal must be reviewed by a certified general appraiser.
 - a) A waiver valuation may be performed for low value (\$10,000 or less) uncomplicated acquisitions. Waiver valuations do not require a review. Consult with the OPRHP Regional Grants Administrator and NYSDOT Office of Right-of-Way to see if this applies.
- 5) A written offer of no less than the established fair market value (FMV) must be extended. Property owners or interests may opt to receive less than FMV and or donate the entirety of the property.
- 6) Those choosing to donate property must have been informed in writing of their right to have an appraisal prepared and compensation, both or either may be waived.
- 7) An agreement, deed for the interest to be acquired (FEE, Permanent Easement (PE), Temporary Easement (TE), public access, etc.), closing papers and payment made (if necessary) are required elements. If a donation is involved, a clause for waiving the compensation must be included in the agreement. If the grantor waives the right to an appraisal, this must be stated in the agreement.
- 8) Property interest acquired must be recorded in the appropriate County Clerk’s Office.
- 9) Review the RTP project property for ROW clearance.

²³ <https://www.dot.ny.gov/PLAFAP>

New York State Recreational Trails Program Guide

- 10) Acquisition records must be kept for a minimum of three years after the final payment for which all property interests are entitled to is made. The acquiring agency must maintain a separate file for each acquisition. Documentation indicating compliance with all applicable laws and regulations is necessary and shall be produced for review or audit by the appropriate State or Federal oversight agency.

Right-of-Way Clearance Certificate Review and Approval

The Right-of-Way Clearance Certificate must be approved by the sponsor, submitted to the OPRHP RGA, and countersigned by the NYSDOT RREO prior to advertisement for construction bids or proceeding to force account construction. A signed certificate attests that either:

- 1) No right-of-way is required for this project;
or
- 2) All properties to be acquired for the project have been obtained; are in the legal and physical possession of the project sponsor; there are no improvements existing that need to be removed or demolished.

The certificate includes a statement that the Sponsor has complied with applicable Federal and State requirements, including the Uniform Act and that the project is ready for construction.

Construction Phase

Federal Authorization for construction allows the project to proceed to construction. Projects may not be let for bid, nor can paid or volunteer work commence until Federal Authorization for Construction has been issued. Equipment may not be purchased before Federal Authorization.

Projects Let for Bid

All projects let for bid and funded with FHWA Recreational Trails Program dollars must attach the *RTP Federal Construction Contract Requirements* to any construction contracts and subcontracts (Appendix D).

In addition, bid documents must contain notice that partial funding for the project is being provided by the Recreational Trails Program of the Federal Highway Administration administered in New York State by OPRHP. All bidders are subject to the State and Federal requirements outlined in the NYS Master Contract for Grants (Standard Clauses, Attachments A-1 and A-2). Project Sponsors are responsible for ensuring that all contracts comply with Federal and State laws concerning the solicitation of supplies, equipment and services. When conflicts occur, OPRHP must be contacted for consultation with the FHWA.

Project Managers must submit to the OPRHP Regional Grants Administrator: a final copy of the advertisement for bid; contractor solicitation log; a bid tabulation spreadsheet showing the lowest, responsive and responsible bidder; non-collusive bid certification; Vendor Responsibility Questionnaire²⁴ (as applicable); and a copy of the executed contract. The Project Sponsor shall not award contracts until concurrence is received from OPRHP. Awarding the contract without OPRHP review and concurrence may result in a loss of Federal aid.

Contracts must be awarded to the lowest responsive and responsible bidder licensed to work in New York State. Federal funding prohibits negotiation with the lowest bidder. In addition, contracts must not be awarded

²⁴ https://www.osc.state.ny.us/vendrep/info_vrsystem.htm

New York State Recreational Trails Program Guide

to any vendor which is debarred or suspended or is otherwise excluded for or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.” To verify if a contractor is debarred or suspended, visit <https://www.sam.gov/SAM/> and search for records. The System for Award Management (SAM) is an official website of the U.S. government. There is no cost to use SAM. For support visit the “Help” tab, or <https://www.fsd.gov/fsd-gov/home.do>.

Civil Rights

State and Federal nondiscrimination requirements are included in all RTP contracts and subcontracts via the [New York State Master Contract for Grants](#),²⁵ Attachment A-2 and [Form FHWA-1273](#).²⁶ Funding for the Recreational Trails Program is made possible through the Fixing America’s Surface Transportation (FAST) Act. The FAST Act, like previous transportation bills, places significant emphasis on increasing opportunities for Disadvantaged Business Enterprises (DBE) as outlined in 49 CFR Part 26, as amended. RTP grantees and their contractors are required to comply with the Disadvantaged Business Enterprise (DBE) Program and the Equal Employment Opportunities (EEO) Program (Executive Order 11246²⁷). Upon grant award, compliance with these regulations and completion of their subsequent documentation will be required by project sponsors before any reimbursement of funds is authorized.

RTP projects will have 0% DBE Goals, however, 49 CFR 26 still applies. If a DBE is used on an RTP project, then the NYSDOT’s DBE Program Plan requirements will apply (see [NYSDOT Standard Specifications](#),²⁸ section 102-12 and 105-21) and OPRHP RGA must be contacted to ensure that the DBE Program requirements are met. Any DBE participation in RTP projects must be reported through the [NYSDOT’s Equitable Business Opportunities \(EBO\) software](#).²⁹ If RTP funds are used in conjunction with other Federal funds administered by the NYSDOT (e.g. TAP), the project sponsor must notify the OPRHP RGA as soon as possible, as they will need to follow the NYSDOT’s procedures in the Local Projects Manual and consult with the NYSDOT regarding DBE goals.

EEO goals will be set for construction contracts of \$10,000 or greater. EEO goals are not applied to projects completed with Force Account Labor or Volunteer Labor. (See Appendix D: *Goals for Minority Participation in the Construction Industry* for a breakdown of EEO goals by county). A goal will be identified by the OPRHP RTP Administrator for each project and entered into the New York State Master Contract for Grants. Although a contractor is required to make good faith efforts to meet their goals, the goals are not quotas and no sanctions are imposed solely for failure to meet them.

EEO compliance will be collected through the submission of an Excel spreadsheet. The Excel spreadsheet, titled *AAP 33LL*, must be completed by the prime contractor and any sub-contractors and must be submitted monthly by the project sponsor to the OPRHP Regional Grants Administrator. Each contractor should fill out the AAP 33LL (Appendix D). If multiple spreadsheets are completed, each sheet should be combined into a single Excel workbook and submitted to the assigned OPRHP Regional Grants Administrator (RGA). EEO reporting is required for tracking construction participation. Clerical or administrative staff should not be tracked.

The equal opportunity clause published at [41 CFR 60 – 1.4\(b\)](#)³⁰ is included by reference in all RTP contracts and subcontracts via form FHWA-1273. All contractors and subcontractors shall take specific affirmative actions to

²⁵ <https://grantsmanagement.ny.gov/system/files/documents/2018/09/sample-complete-nys-mcg.pdf>

²⁶ <https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

²⁷ https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm

²⁸ <https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us?nd=nysdot>

²⁹ <https://www.dot.ny.gov/dotapp/ebo>

³⁰ Code of Federal Regulations, Title 41, Subtitle B, Chapter 60, Part 60-1 – Obligations of Contractors and Subcontractors §60-1.4

New York State Recreational Trails Program Guide

ensure equal employment opportunity. The evaluation of the contractor's compliance shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the 16 steps identified in [41 CFR 60-4.3\(a\)\(7\)](#).³¹

Construction Oversight

The Project Manager is responsible for providing adequate supervision and inspection during construction, including materials inspection and independent quality assurance to ensure projects are completed in conformance with the construction contract documents, plans and specifications.

Providing satisfactory construction supervision and inspection is the responsibility of the Project Manager. Construction inspection must occur at a frequency necessary to verify the materials installed meet the requirements of the contract documents, the project is built in accordance with approved plans and specifications, and quantities used are documented sufficiently through measurement or other means to support payments for completed work. The qualifications of the staff performing supervision and inspection should be commensurate with the level of engineering required in the specifications. Records must be available for inspection by OPRHP and FHWA personnel. Costs claimed for undocumented or improper work cannot be reimbursed with Federal funds. The project sponsor must create and maintain adequate inspection records to ensure documentation exists for the acceptance of both the quality and quantity of materials, equipment, labor and other items as necessary. The basis of acceptance for quality, the method of measurement and the basis of payment are established by the contract specifications. The records must indicate work accomplished, checks and tests performed, the results of those checks and tests, and payments made in accordance with specifications. The Sponsor must ensure each item in the contract is documented sufficiently to satisfy an audit at a later date. Reimbursement will only occur for appropriate billing. The cost of purchasing project management software is reimbursable with Federal funds as part of the cost of construction.

Closeout Requirements

Prior to receiving final reimbursement, Project Sponsors must provide the OPRHP Regional Grants Administrator (RGA) with all necessary close-out documentation and OPRHP must conduct a Final On-Site Inspection. Projects not completed will not receive final reimbursement and may be required to repay previously reimbursed Federal funds.

Final reimbursement requests *must* be accompanied by: a final report describing the actual work accomplished and a justification for any deviations from the original contract Work Plan; an accounting of all funds received and the percentage and dollar value of matching share contributions; an as-built map; and photos of the work performed.

For equipment purchase projects, the year of manufacture, make, model, serial number, date of purchase, date of delivery, photos of equipment, and copy of the title and registration, if applicable, must be submitted with close-out documentation.

For projects which include the acquisition of real estate or the designation of Parkland, a copy of the boundary map recorded in the County Clerk's Office must be submitted with the close-out documentation.

³¹ Code of Federal Regulations, Title 41, Subtitle B, Chapter 60, Part 60-4 – Construction Contractors – Affirmative Action Requirements §60-4.3

New York State Recreational Trails Program Guide

Timeline for Project Completion

Projects are to be completed within 5 years of the contract start date. The project period will be included in the NYS Master Contract for Grants.

Project Extensions

When a project cannot be completed within the original five-year timeframe, an extension will be required to extend the end date of the contract.

Extensions will only be considered when there are circumstances beyond the control of the project sponsor and if appropriate justification is provided. Extensions may also be denied based on the constraints of the RTP Federal funding guidelines. RTP extensions will be considered on a case by case basis and must be approved by the Office of the State Comptroller.

To extend an agreement beyond the initial five-year period; a written request must be submitted to the OPRHP Regional Grants Administrator, which explains the reason for delay in completion of the project, anticipated completion date and any other details pertinent to the delay in completion of the project.

Conditions that will not be considered for an extension include, but are not limited to:

- Project delays have resulted from lack of attention;
- Program reporting requirements have not been met;
- Failure to meet milestones established in NYS Master Contract for Grants;
- History of inability to meet deadlines on previous OPRHP grants.

Post-Closeout Requirements

- Public Access for RTP funded projects must be maintained for the period identified in the NYS Master Contract for Grants.
- For equipment purchased with RTP funds, an equipment certification must be completed at least once every 2 years for the period identified in the NYS Master Contract for Grants.
- Trade-In restrictions apply to any equipment purchased with RTP funds. Information regarding disposition of equipment is found at [2 CFR 200.313](#)³². Project Sponsors must notify OPRHP and receive disposition instructions from FHWA prior to the re-sale, trade-in, or disposition of equipment purchased with FHWA RTP funding.

Acronyms and Definitions

ADA – Americans with Disabilities Act

CFR – Code of Federal Regulations

DBE – Disadvantaged Business Enterprises

EBO – Equitable Business Opportunities

³² Code of Federal Regulations, Title 2, Subtitle A, Chapter 2, Part 200 – Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards §200.313

New York State Recreational Trails Program Guide

EEO – Equal Employment Opportunity

ESA – Endangered Species Act

FHWA – US Department of Transportation’s Federal Highway Administration

NEPA – National Environmental Policy Act

NHPA – National Historic Preservation Act

NYS – New York State

NYS DOT – New York State Department of Transportation

OPRHP – New York State Office of Parks, Recreation and Historic Preservation

PE – Preliminary Engineering

RGA – Regional Grants Administrator

ROW – Right-of-Way

RREO – Regional Real Estate Officer

RTP – Recreational Trails Program

SEQRA – State Environmental Quality Review Act

USC – United States Code

Appendix A: Application Scoring Criteria

- RTP Application Scoring Criteria

Appendix B: Landowner Documentation

- Sample RTP Notice to Owner Letter
- Landowner Permission Attestation - RTP Equipment Purchase Project

Appendix C: RTP Design Report and Appendices

- RTP Equipment Only Checklist
- RTP Design Report
- RTP NEPA Mapping Instructions
- Federal Environmental Approval Worksheet (FEAW) and Instructions
- Right-of-Way Clearance Certificate

Appendix D: RTP Federal Construction Contract Requirements

- RTP Federal Construction Contract Requirements

New York State Recreational Trails Program Guide

- [FHWA-1273](#)³³
- Office of Federal Contract Compliance Programs – Participation Goals for Minorities and Females
 - Goals for Minority Participation in the Construction Industry in New York State
- Workforce Utilization Report (AAP33LL)
- Non-Collusive Bidding Certification
- Lobbying Disclosure (SF-LLL)
- Attachment A-1
- Attachment A-2
- Buy America Provisions

Appendix E: Progress Report

- RTP Progress Report Template

Appendix F: Payment Documentation

- Expense Summary Form for RTP Reimbursement
- Payment Documentation for Local Assistance Grants
- Grantee Certification for Payment
- State-Aid Voucher

³³ <https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>